

**RULES OF PRACTICE AND PROCEDURE  
As adopted June 30, 2005**

**IN THE CRIMINAL COURT OF TENNESSEE  
FOR THE 30th JUDICIAL DISTRICT  
AT MEMPHIS**

**IT IS ORDERED** by the judge of each Division of this Court that the following Rules of Practice and Procedure shall be observed in the conduct of the business of the Court, the same being adopted and ordered spread upon the Minutes of each Division of the Court pursuant to § 16-3-407 of the Tennessee Code Annotated.

**RULE 1**

**TENNESSEE RULES OF PROFESSIONAL CONDUCT**

**1.01** The ethical standards relating to the practice and the administration of law in this Court shall be as set forth by Rule 8 of the Rules of the Tennessee Supreme Court, and shall be cited as: "Tennessee Rules of Professional Conduct." [Effective 2-12-2004]

**RULE 2**

**FORMER RULES**

**2.01** All former rules of local practice in this Court are hereby abrogated. [Effective 2-12-2004]

**RULE 3**

**STYLE OF PLEADINGS AND SETTING OF CASES**

**3.01.** All pleadings, including written motions, orders, briefs and other papers submitted to the Court shall conform to Supreme Court Rule 36. The front page shall be captioned: "IN THE CRIMINAL COURT OF TENNESSEE FOR THE 30TH JUDICIAL DISTRICT AT MEMPHIS" and shall show the case number, the style, the crime charged, the nature of the paper filed, and the attorney's name, address, and registration number of the Tennessee Board of Professional Responsibility. [Effective 5-10-2002]

**3.02.** All cases shall be set chronologically unless otherwise ordered by the court. Precedence shall be given to the disposal of jail cases. Attorneys for each defendant shall sign their name, firm address, telephone number and registration number of the Tennessee Board of Professional Responsibility, upon the case jacket on becoming counsel. That attorney shall remain counsel of record for the defendant until final disposition of the case, unless excused by the Court for good cause. Final disposition shall not extend to post conviction relief petitions, revocation of suspended sentences, parole matters or matters unrelated to the case. [Effective 2-12-2004]

## **RULE 4**

### **ASSIGNMENT OF CRIMINAL CASES**

**4.01.** The following method will be employed by the Criminal Court Clerk's Office for the initial assignment of cases to the ten divisions of Court. The following types of cases will be assigned to the ten divisions of Court in numerical order beginning with Division I through X as the indictments are filed in the Criminal Court Clerk's Office. This procedure shall be used in the following types of cases: Murder in the First Degree (except as provided for in Rule 4.06), Attempt Murder in the First Degree, Conspiracy to Commit First Degree Murder, Second Degree Murder, Aggravated Kidnapping, Especially Aggravated Robbery, Aggravated Rape, Aggravated Arson, Aggravated Robbery, Rape, Aggravated Sexual Battery, Voluntary Manslaughter, Vehicular Homicide, Kidnapping, Robbery, Spousal Rape and Incest. All other cases will be divided equally among the ten divisions of the Court. The Judges, sitting en banc, may designate by separate written Order one or more divisions of Court for the purpose of handling special prosecution cases, with the consent of the Judge of that division of Court so designated. Said cases which have been designated as special prosecution cases by the District Attorney General, using objective criteria approved by the Judges in such Order, shall be assigned by the Criminal Court Clerk to the designated division or divisions of Court as set out in that Order, along with other cases assigned in the regular rotation generally as set out above, in such number that all ten divisions of Court have an approximate equal number of cases assigned to them each month. All salary petitions filed by the Criminal Court Clerk and the Sheriff will be heard by the Administrative Judge. [Effective 10-1-2001.]

**4.02.** Once a case has been assigned, all matters in the case shall be heard in that division.

**4.03** Any motions or petitions requesting hearings in matters that have not been previously assigned to a division of court shall be filed with the Clerk's Office and assigned in a manner prescribed by the judges of this Court. In the event the Clerk's Office is closed, and there is an emergency hearing, the petition will be presented to the Administrative Judge of the Criminal Court. If the Administrative Judge is unavailable then the matter will be presented to any available Judge of this Court.

Petitions for Writ of Habeas Corpus will be filed in the Clerk's Office between the hours of 8:00 a.m. through 4:30 p.m., Monday through Friday, and immediately assigned to the next Judge in numerical rotation beginning with Division I through X. In the event the Judge, to whom the writ has been assigned, is not available, the next available Judge in rotation shall be assigned to the writ. If there is a conflict of interest involving the Judge to whom the Writ of Habeas Corpus is assigned, the writ shall be assigned to the next Judge in rotation. If there is a request for a Writ of Habeas Corpus after hours on weekends or holidays, the writ is to be handled by the Administrative Judge unless there is a conflict of interest or the Administrative Judge is not available. Then, the writ is to be taken to any available Judge of this Court.

The procedure for assigning cases will be strictly adhered to by the Criminal Court Clerk unless a written order is entered by a Judge or Judges of this Court changing the method or assignment of a case due to an emergency or a conflict of interest.

**4.04.** When necessary for the efficient administration of justice, a judge may hear and determine any matter by interchange for another judge without the necessity of transferring the cases from one division to another.

**4.05.** The judges may transfer cases among themselves by mutual consent. It is not necessary that the parties or their counsel consent to such transfer. A party requesting a transfer of a case from one division to another division shall obtain an order from the Court to which the case is assigned, transferring the case to another division.

**4.06.** When the District Attorney elects to vertically prosecute a defendant charged with Murder First Degree after that defendant has been arrested, but prior to indictment, an assistant from that office may present a copy of the arrest ticket containing that charge and the defendant's name to the office of the Criminal Court Clerk, and an employee of the Clerk's office will draw randomly from a box containing the numbers one through ten, a number which will be the division of Criminal Court to which that case will be assigned if indicted (regardless of the indicted charges). That number will be not be placed back in the box for further use until all ten numbers have been drawn, at which time all ten numbers will be returned to the box and used for the random assignment of the next ten cases. A log book containing a list of the names of these defendants and the date they are pre-assigned a division will be kept by the clerk, along with the number of the division of court to which each defendant's case is assigned. This log book and assignment information will be made available to all attorneys. Any persons indicted with that defendant as co-defendants for that offense will also be assigned to the same division of court as the original defendant. [Effective 10-1-08.]

## **RULE 5**

### **ATTORNEYS**

**5.01.** In order to practice law in this Court, an attorney who is a resident of Tennessee must be licensed to practice law in this State, in accordance with Rule 7 of the Tennessee Supreme Court Rules, and must be duly qualified and registered with the State Board of Professional Responsibility, pursuant to Rule 9 of the Rules of the Tennessee Supreme Court.

**5.02.** Non-resident Attorneys. Non-resident attorneys shall be entitled to practice in a particular case upon compliance with Tennessee Supreme Court Rules 19 and 20.

**5.03** Any attorney or firm appointed to represent an indigent in custody defendant in any General Sessions or Municipal Court in Shelby County, whose charges have been held to the action of the Shelby County Grand Jury but have not yet been indicted, shall be deemed to continue representation of that defendant for the purpose of filing any necessary pre-indictment motions until such time as that defendant is released on bond, is indicted on the pending charges, or has had the warrant holding that defendant in custody dismissed. [Effective 6-30-2005]

## **RULE 6**

### **RULES OF CRIMINAL PROCEDURE**

**6.01.** The Rules of Criminal Procedure of Tennessee are hereby adopted as the Rules of this Court and shall apply in all criminal proceedings.

**6.02.** The Rules of Sentencing Practice and Procedure set forth in Title 40, Chapter 35, Tennessee Code Annotated, are hereby adopted as the Rules of this Court and shall apply, as applicable, in all criminal proceedings.

**6.03.** All preliminary motions, including motions to dismiss and motions to suppress evidence, and notice to adversary counsel, required by Rule 12 of the Rules of Criminal Procedure, must be filed in writing not more than twenty (20) days after formal arraignment of the defendant, unless an extension is allowed by the Court for good cause. Upon the filing of a motion to suppress evidence, the defendant shall appear in Court within seventy-two (72) hours and receive an evidentiary hearing date. These evidentiary

hearings are to be heard prior to the report date, unless good cause is shown for a continuance. A violation of this requirement and this rule will authorize the Court to enter a summary dismissal of said motion.

**6.04.** Notice to adversary counsel required by the Criminal Sentencing Reform Act of 1989 shall be filed with the Court not less than fourteen (14) days before trial. The filing party shall certify that a copy has been furnished to adversary counsel. Hearings on motions will be set by the Court upon request of either party made in open court, or as otherwise directed by the judge of a particular division.

**6.05.** Where there is more than one defendant in a case, defense counsel may agree on the order they shall follow. If unable to agree, the order in which the defendants are named in the indictment shall be followed. If each defendant be named by separate indictment, the order shall be followed chronologically. Such order shall be followed in the voir dire, pleas, cross-examination, testimony of defendants and arguments of counsel.

**6.06.** The ten divisions of Criminal Court shall convene at 9:00 o'clock a.m. daily, except holidays, Saturdays and Sundays. [Effective 4-21-03]

**6.07.** All divisions will accept transfer of cases that are ready for immediate commencement of trial.

**6.08.** Witnesses. Subpoenas for witnesses for the State and defendant shall be issued not less than ten (10) days prior to the date of the trial. No continuance shall be granted based upon an absent witness, unless subpoenaed in conformity with this section.

**6.09.** Court Files. All papers and records of the Court shall be under the custody and control of the Clerk. No files shall be withdrawn from the Clerk's Office except by the judge or clerks. No files shall be removed from the courtroom by attorneys, unless with permission of the judge or clerk to make copies necessary for the orderly business of the Court. [Effective 1-25-2000]

**6.10.** Record on Appeal. Transcripts of the evidence will be prepared and filed in accordance with Rule 24 of the Rules of Appellate Procedure of Tennessee.

**6.11.** Upon arraigning a defendant, the Court shall set a report date not more than thirty-five (35) days from the arraignment date. A case may be settled at any time prior to the final settlement date. The final settlement date will be a date set by the Court, but no later than thirty (30) days prior to the trial date. After that date no further negotiated settlement will be accepted by the Court without good cause and leave of the Court. [Effective 1-31-2005]

**6.12.** Court Recordings. No attorney or person may listen to, record, or type all or any portion of the record of court proceedings without a written order from the Court. Any person seeking access to court recordings shall file a motion in the division in which the requested record was made setting forth the date or dates requested, the subject matter, and the identity of any witness or witnesses whose testimony is sought. The judge of the division in which the court recording was made shall review the audiotapes and issue an order within 30 days granting, denying or limiting the motion for access. In the event an order is issued denying or limiting access to the requested information, the movant may file a motion with administrative judge to have the decision and the audiotapes reviewed by a three judge panel, composed of two other criminal court judges, appointed by the administrative judge, plus the administrative judge, who will preside. The panel will issue an order affirming, overruling or modifying the initial judge's order within 60 days of the request for review. In the event the judge initially denying the request is the sitting administrative judge, review will be afforded by the administrative judge whose term immediately preceded that of the sitting administrative judge. Appeal of any order of the panel shall be in accordance with the Tennessee Rules of Criminal Procedure. [Effective 8-29-1995]

## **RULE 7**

### **BAIL BOND COMPANIES**

**7.01.** From the effective date of these rules, any person filing an application to open a professional bail bond company in Shelby County is required to post a minimum of Seventy-five Thousand Dollars (\$75,000) in cash with the Criminal Court Clerk, as security for bonds written. There must be prior approval by the Court before a bonding company will be allowed to post any security in addition to the minimum cash deposit.

**7.02.** Any company approved by this Court subsequent to January 4, 1996, and operating on posted security may write bonds five (5) times the amount of the security. Any company in existence between the period of February 4, 1991 through January 3, 1996 may write bonds eight (8) times the amount of the security. Any company in existence prior to February 4, 1991, may still write bonds on a ten (10) to one (1) ratio.

If a company is suspended pursuant to Rule 7.03 for any other reason deemed appropriate by a majority of judges of this court, upon reinstatement, the company may write bonds at a five (5) to one (1) ratio.

**7.03.** If a company writes bail bonds and/or has forfeitures in an amount exceeding the ratios as set out in Rule 7.02, the Criminal Court Clerk is ordered to obtain forthwith an order from any Judge of this Court suspending the company from the approved list of bondsmen, and to notify the suspended company and all inferior courts of said suspension. The suspension shall remain in effect until the company posts the required amount of additional security, or until the amount of penal sums written falls within the ratios set out in Rule 7.02, pending further orders of the Court. There shall be a \$100 reinstatement fee for the suspended bail bond company.

**7.04.** The Criminal Court Clerk's Office shall issue a written notice to a bail bond company when said company's liability reaches 90% of their ratio as set out in Rule 7.02. If there is a discrepancy between the records of the bail bond company and the Criminal Court Clerk's Office, the records of the Criminal Court Clerk's Office will be presumed correct.

**7.05.** These same Court Rules shall pertain to the General Sessions Criminal Court of Shelby County for the administration of the professional bail bond companies in their court.

**7.06.** Pursuant to a hearing, the General Sessions Criminal Court of Shelby County may make recommendations to Criminal Courts of the 30th Judicial District of Tennessee regarding the approval of professional bail bonding companies wishing to operate in the Shelby County General Sessions Criminal Division of Court.

**7.07.** It shall be the responsibility of the company writing the bond that all bail bonds shall have the name, address, including any apartment number, and zip code number of the defendant legibly printed thereon.

**7.08.** The Criminal Court Judges, exercising jurisdiction over bail bond companies shall sit en banc in the courtroom of the respective Administrative Judge as needed. When a bail bond company desires to change, alter, or modify its authority to write bail bonds on cash or surety, it will be the responsibility of the company to file sworn petitions setting out the reasons and necessity for such a hearing. The hearing will be in open Court upon the record. [Effective 9-1-2000]

**7.09.** Any bail bond company authorized by the Criminal Court of Shelby County, Tennessee, to execute bail or bonds, or bonds securing fines and cost shall file with the Criminal Court Clerk a semi-annual financial report pursuant to Tennessee Code Annotated § 40-11-303. The semi-annual financial report shall be prepared by a licensed certified public accountant, after audit, and certified according to

general accounting principals. Failure to comply with the rule will result in the termination of a bail bond company's authority to execute bonds in Shelby County, Tennessee.

**7.10.** In order to facilitate the determination of the owner of any funds remitted to a bail bond company after having been granted relief pursuant to T.C.A. § 40-11-204 on forfeitures paid in, any monies paid into the office of the Criminal Court Clerk due on forfeitures taken shall be paid only by cash or by a single check written on the account of the surety or its owner. The Criminal Court Clerk shall not accept payment for a forfeiture by personal check written on the account of any other party, nor shall it take payment by multiple checks drawn on different accounts. [10-29-1998 addendum]

## **Rule 8**

### **COURTROOM DECORUM**

**8.01.** It is essential to an orderly administration of criminal justice and to assure the accused of receiving a fair, impartial and constitutional trial, that the decorum of all persons in the courtroom be maintained in a manner that will promote and protect the highest standards of the judicial process. It is ultimately the authority and responsibility of the Trial Judge which must be exercised to maintain the atmosphere appropriate for a fair, rational and civilized determination of the issues and the governance of the conduct of all persons in the courtroom, including the attorneys. To effectuate this purpose, the following rules regulating the decorum of the courtroom are hereby adopted.

**8.02.** Flag. Flags of the United States and the State of Tennessee shall be displayed on the bench of the Court. The United States flag shall be to the Judge's right side, and the flag of Tennessee shall be displayed to the left side.

**8.03.** Opening and Closing of Court. The Court shall be formally opened each day upon which the Court's business is transacted as follows:

As the Judge enters the Courtroom, the bailiff shall require all present to rise and remain standing. The bailiff shall say:

"Hear ye, hear ye, this Honorable Division \_\_\_\_\_, of the Criminal Court of Tennessee, 30th Judicial District, at Memphis, is now open for transaction of business pursuant to adjournment. All persons having business with this Court draw near, give attention, and ye shall be heard. Be seated, please. No talking in the courtroom."

**8.04.** The space within the rail of the courtroom is reserved for litigants actually engaged in trial and for attorneys of the local Bar.

**8.05.** Where space is available and with permission of the Court, the defendant may sit at counsel table with his or her attorney.

**8.06.** Counsel will stand when examining or cross-examining witnesses or when addressing the Court, or the Jury, unless excused by the Court.

**8.07.** Counsel shall not place or leave upon the tables of the courtroom any hats, newspapers, magazines or any other object nor shall they engage in any conversation, consultation or other activity that may disturb the orderly procedure while Court is in session.

**8.08.** Counsel shall not engage in repartee or colloquy and shall address their remarks to the Court instead of each other.

**8.09.** In making an objection to the testimony, counsel shall state only the legal grounds therefor and shall not attempt to argue said objections in the presence of the Jury, except with permission of the Court.

**8.10.** The argument of counsel to the Jury shall be confined to the issues in the case and supported by the evidence. Counsel may suggest such facts and circumstances as have been established by evidence or by knowledge and the reasonable inferences to be drawn therefrom. Argument must be addressed to the entire Jury instead of to one or more individual jurors, as contemplated by the Canons of Professional Responsibility that forbids counsel to curry favor with juror.

## **RULE 9**

### **WAIVER OF RULES**

Whenever in a particular instance, in the opinion of the trial judge, for good cause shown, and justice requiring, these rules may be waived.

## **RULE 10**

### **PRIVATE PROBATION COMPANIES**

**10.01.** Section 40-35-302 of the Tennessee Code Annotated provides for the establishment of private probation companies to supervise defendants convicted of misdemeanors in the Criminal Courts.

This section establishes the minimum standards for the chief executive officer and employees of private probation companies who are responsible for providing supervision to persons placed on probation by the Criminal Courts. In addition, this section provides for the posting of performance surety bonds and a report on each employee's criminal record.

Subsection (E) sets out the required information for the application form for private probation companies.

Subsection (D) requires that these forms shall be filed with all of the Criminal Court Judges in Judicial District in which the entity proposes to provide misdemeanor probation services.

The purpose of this rule is to specify a uniform procedure for proposed private misdemeanor probation companies to apply for authorization to supervise probationers for the Criminal Courts of the 30th Judicial District.

The entity proposing to provide misdemeanor probation services for the Criminal Courts shall file an application with the Criminal Court Clerk's Office. This application shall conform with the requirements as set out in § 40-35-302 of the Tennessee Code Annotated. The Clerk of the Court shall immediately forward the application to the Administrative Judge of the Criminal Courts who will hold an En Banc Hearing to determine if the applicant is properly qualified to supervise probationers for the Criminal Courts of the 30th Judicial District.

The private companies that have previously been authorized to supervise probationers by the Criminal Courts shall have 60 days from the effective date of this rule to file a new application with the Court and may continue to operate until their application has been reviewed by all the Judges of this Court.

[Effective April 10, 2000.]

**WHEREOF, IT IS CONSIDERED, ORDERED, AND ADJUDGED**, the foregoing Rules are hereby adopted and shall be forthwith entered upon the Minutes of each Division of said Court.

**IT IS FURTHER ORDERED**, that copies of these Rules be made available for distribution, without charge, through the Criminal Court Clerk's Office, to all practicing attorneys and the public at large.

**IT IS FURTHER ORDERED**, that a copy of these Rules adopted by this Court shall be furnished to the Administrative Office of the Courts of Tennessee, and a copy of all amendments thereafter made shall, upon their promulgation, be filed in said office.

**IT IS FURTHER ORDERED AND ADJUDGED**, that these Rules shall become effective on the 30th day of June, 2005.