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*Otis Jackson, Jr., Clerk*

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## RULES OF THE COURT

### **IN THE GENERAL SESSIONS CRIMINAL COURTS OF SHELBY COUNTY**

#### **RULES OF PRACTICE AND PROCEDURES**

For the purpose of providing uniformity of procedure in all the Divisions of the General Sessions Criminal Courts, it is ordered by the Judge of each Division of said Court that the following Rules of Practice and Procedure shall be observed in the conduct of business of the Court, the same being adopted by each Division of the Court, by virtue of the power vested in said Judges by Section 16-3-407, Tennessee Code Annotated.

#### **RULE 1**

##### **Sessions of Court**

The General Sessions Criminal Courts shall convene at 9:00 a.m. daily, except holidays and Saturdays and Sundays. There may also be a 1:30 p.m. session as needed.

#### **RULE 2**

##### **Dockets**

The dockets for all Division of Court shall be posted daily in a prominent place outside the General Sessions Criminal Court Clerk's Office. All Courts open at 9:00am for the daily dockets.

#### **RULE 3**

##### **Courtroom Decorum and Procedure**

Upon a Judge entering a courtroom preparatory to the formal opening of Court, the Sheriff will call the courtroom to order, directing all in attendance to stand, and upon being so instructed by the Court, will open Court by saying the following:

"Hear Ye, here ye, this Honorable Division \_\_\_\_\_ of the General Sessions Criminal Courts, is now open for the

transaction of business pursuant to adjournment. All persons having business with the Court, draw near, give attention, and ye shall be heard. The Honorable \_\_\_\_\_ presiding. Be seated, please, No talking in the courtroom."

Upon the Judge instructing the Sheriff to call a recess or adjourn court for the day, the Sheriff shall direct all in attendance to stand, as will the Judge, and will say one of the following:

"This Honorable Court stands in recess until \_\_\_\_\_."

"This Honorable Court now stands adjourned until tomorrow morning at \_\_\_\_\_ o'clock (or until a day certain.)"

All Judges will wear judicial robes during all sessions of their courts.

All lawyers and court attendants will be appropriately attired while in attendance upon the Court.

There will be no smoking or holding of cigars, pipes, or cigarettes in the hand or mouth while the court is in session.

No food or drink shall be brought into the courtroom.

The space within the rail of the courtroom is reserved for lawyers and law enforcement personnel unless otherwise authorized by the Court.

Defendants must appear in Court each setting unless the Court specifically waives their presence.

Defendants should be appropriately attired.

Sheriffs in attendance upon Courts will be charged with the responsibility of requiring compliance with these rules which relate to standards of courtroom conduct and decorum.

#### **RULE 4**

#### **Attorneys and Representation**

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 Tennessee Supreme Court. A non-resident attorney, who is not otherwise in compliance with the above Rules, must associate an attorney of this State who is in compliance with said rule in any case pending before the court, and will be allowed as a matter of courtesy to appear in such cases in which he may be thus employed without procuring a license, when introduced to the Court by an attorney in good standing. Such non-resident attorney must be admitted to practice and be in good standing in the jurisdiction of his residence.

New attorneys must be introduced to each Division of Court by a licensed attorney. Once the new attorney has been introduced in all divisions, then the name and disciplinary number of the new attorney shall be enrolled in a well-bound book kept in the General Sessions Court Clerk's Office.

Attorneys for each defendant shall print their name, firm address, telephone number, registration number of the Board

of Professional Responsibility, and the date upon the case jacket on becoming counsel. Such attorney shall remain counsel of record for that defendant until disposition of the case, unless excused by the Court for good cause. Any attorney requesting permission to withdraw from a case shall make such application in open court and shall furnish written notice to the defendant. If for good cause shown the court grants the motion to withdraw, Counsel shall forthwith submit a written order to the Court.

Attorneys and defendants, where not represented by counsel, shall address the court only after having been granted permission to approach the Bench. Attorneys shall announce the docket number of a given case to the Court when addressing the court about a case, as well as have any necessary waiver or forms fully prepared and executed prior to addressing the Court.

Attorneys must have in Court the jacket of a given case when making any motion to the Court about a forfeiture, continuance, recall of a warrant, issuance of a restricted driver's license, change in mittimus, or any other matter concerning a case not currently on the court's docket.

All papers and records of the court shall be under the custody and control of the Clerk. Jackets may be used by the attorney in the courtroom but shall not be taken beyond the rail.

Counselors shall not place or leave upon the tables of the courtroom any hats, newspapers, or magazines, nor shall they engage in any conversation, consultation or other activity that may disturb the orderly procedure while Court is in session. Attorneys shall not confer with their clients in the courtroom while the court is in session.

Attorneys and all litigants shall observe the "Quiet Court in Session" signs in the areas outside each courtroom and shall conduct their conversation in a manner so as not to disturb the proceedings in the courtrooms. Any defense, objection, or request which is capable of determination without the trial of the general issue may be raised before trial by motion. Motions may be written or oral at the discretion of the Judge. A copy of the written motion shall be filed with the General Sessions Judges' Secretary and the General Sessions Court Clerk no later than seven (7) days before the hearing. Subpoena for witnesses for the state and defendant shall be issued not less than seven (7) days prior to the date of the trial. No continuance shall be granted based upon an absent witness, unless subpoenaed in conformity with this order.

**RULE 5**

**Transfer of Cases**

Cases shall be transferred for good cause from one division to another only upon written order signed by the Judges of both the transferring court and the accepting Court.

**RULE 6**

**Felony Bonds**

All felony bonds will be set in open Court by the Judge hearing felony cases or by the Judicial Magistrates. During the day following the adjournment of the Felony Court and on weekends and holidays the felony Judge or Judicial Magistrates will set bonds by telephone for all defendants charged with felonies, whether the defendants are represented by attorneys or not. Attorneys need not call the felony Judge, or any other Judge or Magistrate, inasmuch as background information as to the defendants will be furnished by the Shelby County Pre-trial Services. If an attorney wishes

to provide information concerning the setting of bond for the attorney's client, the attorney should provide such information to the Pre-trial Services personnel.

#### **RULE 7**

##### **Private Probation Companies**

The general sessions courts have the authority to order a defendant placed on probation to be supervised by any public or private agency, program or association which has been established for the purpose of supervising defendants convicted of misdemeanors. The court is encouraged to consider any public or private agency, program or association for supervision prior to ordering the department of correction to supervise the defendant.

The following minimum education standards are required for certain employees of an entity established for the purpose of supervising misdemeanor probationers.

The chief executive officer of an entity offering probation supervision shall have a bachelor's degree from an accredited university in any of the following fields: criminal justice, administration, social work, or the behavioral sciences and two years of experience in criminal justice or social work; provide, that four years of professional administrative experience with an organization providing services in criminal justice or social work may be substituted for the bachelor's degree.

An employee responsible for providing probation supervision and employed by an entity shall have at least four years of experience in a criminal justice or a social services agency providing counseling services or shall have a bachelor's degree and/or associate's degree from an accredited college or university in any of the following fields; criminal justice, administration, social work, or the behavioral sciences.

A person employed on July 1, 1997, by an entity established for the purpose of supervising misdemeanor probationers shall have four years from such date to comply with the minimum education requirements established by this section.

Any entity providing probation supervisory services shall post a performance surety bond in an amount equal to the amount of coverage required to be provided under the Governmental Tort Liability Act. The bond shall provide recourse for the county or municipality in the event of nonperformance, default or breach of contract by the contracting entity and cover claims that may arise based on such entity's nonperformance. A copy of such bond shall be filed with the clerk of General Sessions Criminal.

Any entity providing or proposing to provide misdemeanor probation services shall investigate the criminal record for each employee and shall include in its application form any criminal conviction of each employee.

Any entity providing or proposing to provide misdemeanor probation services shall provide an application form to all of the general session's criminal court judges. Any entity providing or proposing to provide misdemeanor probation services shall file an application form with the office of the clerk of general sessions, which contains the following information:

- (a)** The title of the entity;
- (b)** Its form of business organization;

- (c) The office and mailing address of the entity;
- (d) The names of the employees who will provide services and their position with the entity, and their credentials;
- (e) A sworn statement that the credentials of all employees meet the minimum standards.
- (f) A sworn statement that a criminal record search has been conducted and, if a criminal conviction has been discovered, the name of the employee and the criminal conviction;
- (g) A credit history of the entity including any judgments or lawsuits;
- (h) A description of the services to be provided by the entity and the fee structure for the services to be provided.

The application shall contain an affidavit filed under penalties of perjury that it is complete and accurate and complies with the requirements set forth. The application and the affidavit shall be filed with the clerk of the general session's criminal courts. The entity shall also file a quarterly report with the general session's criminal court clerk's office, which shall include the following information:

- (a) The caseload for the entity;
- (b) The number of contact hours with offenders;
- (c) The services provided;
- (d) The number of filings for probation revocation and their dispositions;
- (e) A financial statement including administrative costs and service costs;
- (f) Contributions, if any, to the criminal injuries compensation fund.

#### **RULE 8**

#### **Judicial Commissioners**

Judicial Commissioners duties shall include, but not be limited to, the following:

- Issuance of search warrants and felony arrest warrants upon a finding of probable cause and pursuant to requests from on-duty law enforcement officers and in accordance with the procedures outlined in chapters 5 and 6 of title 40 of Tennessee Code Annotated.
- Issuance of mittimus following compliance with the procedures prescribed by 40-5-103 of Tennessee Code Annotated.
- The appointing of attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county.
- The setting and approving of bonds and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county.

- Issuance of injunctions and other appropriate orders as designated by the general sessions judges in cases of alleged domestic violence.
- Signing of seizure warrants.
- Conducting first appearances.
- Conducting proceedings relative to the issuance of extended orders of protection and all proceeding and matters attendant thereto.
- Any other duties assigned by the General Sessions Criminal Court Judges that are not inconsistent with the law.

**IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED,** the foregoing Rules are hereby adopted by each Division of said Court.

**IT IS FURTHER ORDERED,** that copies of these Rules be made available for distribution, without charge, through the General Sessions 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 Executive Secretary of the Supreme Court 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 1ST DAY OF JANUARY, 1985**(AMENDED JULY, 2000)

<b>Bill Anderson, Jr., Judge</b>	Division VII
<b>Tim J. Dwyer, Judge</b>	Division VIII
<b>Joyce C. Broffit, Judge</b>	Division IX
<b>William C. Turner, Judge</b>	Division X
<b>Karen L. Massey, Judge</b>	Division XI
<b>Gwen Rooks, Judge</b>	Division XII
<b>Louis J. Montesi, Judge</b>	Division XIII
<b>Larry E. Potter, Judge</b>	Division XIV