



## Sullivan County

Board of County Commissioners  
235<sup>th</sup> Annual Session

Item 8  
No. 2015-06-39

To the Honorable Richard S. Venable, Chairman, and the Board of Sullivan County Commissioners meeting in Regular Session this 15<sup>th</sup> day of June, 2015.

**RESOLUTION TO CREATE THE SULLIVAN COUNTY OFFICE OF JUDICIAL COMMISSIONER, WHICH MAY BE REFERRED TO AS "MAGISTRATE", and TO PROVIDE FOR AND FUND THE APPOINTMENT OF FOUR SUCH OFFICIALS**

WHEREAS, Rule 3 of Tennessee Rules of Criminal Procedure requires that an affidavit of complaint be made under oath before a magistrate or a neutral and detached court clerk; and

WHEREAS, Rule 4 of the Tennessee Rules of Criminal Procedure requires that probable cause for the issuance of arrest warrants and criminal summons be determined by a magistrate or clerk; and

WHEREAS, clerks are generally not available after hours and on weekends and holidays; and

WHEREAS, other needs in criminal proceedings exist after normal working hours and on weekends and holidays that cannot be adequately handled by clerks,

**NOW THEREFORE BE IT RESOLVED** that pursuant to state statute T.C.A. 40-1-111 the office of Judicial Commissioner (Magistrate) is created for Sullivan County with the following provisions, terms and conditions applying thereto:

- a) Four Judicial Commissioners shall be appointed by the legislative body of Sullivan County with two of said four Judicial Commissions to serve in the geographical area that makes up Divisions I and IV (Bristol) of the General Sessions Court of Sullivan County and the other two of said four Judicial Commissioners to serve in the geographical area that makes up Divisions II and III (Kingsport) of the General Sessions Court of Sullivan County.
- b) The legislative body for Sullivan County shall appoint individuals to fill each new term of office of the four offices of Judicial Commissioner to take office on August 1 of each year. The legislative body for Sullivan County shall take into consideration the views, comments and suggestions of the General Sessions Judges of Sullivan County in making decision relative to the appointment, evaluation, retention, reappointment and termination of said Judicial Commissioners.
- c) The term of office for each Judicial Commissioner shall be for one (1) year. All four Judicial Commissioners shall have coinciding terms of office. The terms of office for all Sullivan County Judicial Commissioners shall begin on August 1 and end on July 31. The initial term of office of all four Judicial Commissioners shall begin on August 1, 2015 and end on July 31, 2016.
- d) Should the term of office of a Judicial Commissioner expire and a new term begin without the appointment of a Judicial Commissioner to hold that office during the new

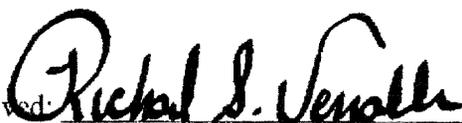
- term, the Judicial Commissioner holding that office at the termination of the term shall continue to serve as Judicial Commissioner until either that Judicial Commissioner is reappointed or a replacement is appointed by the Sullivan County legislative body.
- e) There shall be no limit on the number of terms of office an individual may be appointed to serve.
  - f) No member of the Sullivan County legislative body shall be eligible for appointment as a Judicial Commissioner.
  - g) Each Judicial Commissioner shall be a resident of the geographical area of the division of the General Sessions Court in which said Judicial Commissioner serves.
  - h) Judicial Commissioners may interchange with each other, including Judicial Commissioners from Division I and IV interchanging with Judicial Commissioners from Division II and III, as scheduling or other circumstances may require, providing said interchange is approved by the presiding Judge of Division I and IV of the Sullivan County General Sessions Court or the presiding Judge of Division II and III of the Sullivan County General Sessions Court. A presiding General Sessions Judge may also direct an interchange of such Judicial Commissioners as necessary.
  - i) Each Judicial Commissioner shall be paid an annual salary of \$15,000 which shall accrue at the daily rate of \$41.10 per day and which shall be paid from the general fund of Sullivan County in semi-monthly installments (on or about the 1<sup>st</sup> and 15<sup>th</sup> of each month) as long as said Judicial Commissioner holds office. Upon vacation of said office for any reason, voluntary or involuntary, the Judicial Commissioner shall be entitled to the salary accrued through the last date of service and will thereafter no longer be entitled to any salary.
  - j) The office of Judicial Commissioner shall be considered part-time and the person serving shall not be entitled to any benefits provided to Sullivan County employees and/or officials because of appointment to the office. The Sullivan County Employee Handbook is hereby amended to reflect the creation of this office and to show that this office is entitled to none of the benefits enjoyed by other Sullivan County employees and/or officials.
  - k) Each Judicial Commissioner shall be appointed by the Sullivan County legislative body and will thereafter serve at the sole direction of the Sullivan County legislative body. A Judicial Commissioner may be terminated at any time by the Sullivan County legislative body with or without cause, for any or no reason. Except for the amount of salary accrued and owing at the time of termination, a Judicial Commissioner so terminated shall have no claim against Sullivan County, the judges of Sullivan County, or any official or employee of Sullivan County for salary or any other claim, damages, or pay because of such termination.
  - l) If a vacancy occurs in either of the two offices of Judicial Commissioner serving Division I and IV of the Sullivan County General Sessions Court, the presiding General Sessions Judge of Division I and IV shall appoint a temporary Judicial Commissioner to serve until the office can be filled by the Sullivan County legislative body. Likewise, if a vacancy occurs in either of the two offices of Judicial Commissioner serving Division II and III of the Sullivan County General Sessions Court, the presiding General Sessions Judge of Division II and III shall appoint a temporary Judicial Commissioner to serve until the office can be filled by the Sullivan County legislative body. The person named to serve as a temporary Judicial Commissioner shall be entitled to collect the same daily rate of pay as a duly appointed Judicial Commissioner during said temporary appointment until the office is duly filled by the Sullivan County legislative body.

- m) Each Judicial Commissioner shall comply with the training requirements set out in T.C.A. 40-1-111 and also take part in any training required by the presiding General Sessions Judges. As required by T.C.A. 40-1-111, Sullivan County shall provide the funding necessary to complete the required continuing education.
- n) The office of Judicial Commissioner shall have the duties set out in T.C. A. 40-1-111 and other duties as properly and legally directed by the presiding General Sessions Judges. The presiding General Sessions Judge for Divisions I and IV shall direct the Judicial Commissioners for Divisions I and IV and likewise the presiding General Sessions Judge for Divisions II and III shall direct the Judicial Commissioners for Divisions II and III.
- o) The Judicial Commissioners shall be available to perform their duties during the hours when the Sullivan County Circuit Court Clerk's office is closed, including holidays and weekends, and at the times and places required by the presiding General Sessions Judges in their divisions. Judicial Commissioners may rotate their scheduling, as approved by the presiding General Sessions Judge, so long as one of them is available at all times in Divisions I and IV and one of them if available at all times in Divisions II and III. The presiding General Sessions Judge for Divisions I and IV shall direct and approve the schedules for the Judicial Commissioners for Divisions I and IV and likewise the presiding General Sessions Judge for Divisions II and III shall direct and approve the schedules for the Judicial Commissioners for Divisions II and III.
- p) The Judicial Commissioners appointed pursuant to this resolution may be referred to as "Magistrates" and the names "Judicial Commissioner" and "Magistrate" shall be interchangeable.

This Resolution shall take effect from and after its passage. All resolutions in conflict herewith shall be and the same are hereby rescinded insofar as such conflict exists.

Approved this 15<sup>th</sup> day of June, 2015.

Attested:   
Jeanie Gammon, County Clerk

Approved:   
Richard S. Venable, Chairman, County Commission

**Introduced By: Commissioner: Eddie Williams**

**Seconded By: Commissioner(s): Terry Harkleroad, Joe Herron, Robert F. White, Michael Cole, Randy Morrell**

**ACTIONS: Waiver of rules**

**Approved 06-15-15 23 Aye, 1 Absent**