

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**December 21, 2022**

**Opinion No. 22-16**

**District Public Defender Appointments in General Sessions Courts**

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**Question**

Is it the duty and responsibility of a district public defender to accept appointed cases in general sessions courts?

**Opinion**

Yes. District public defenders have the duty and responsibility to accept appointments to represent indigent persons who appear in general sessions courts in any criminal prosecution or juvenile delinquency proceeding involving a possible deprivation of liberty.

**ANALYSIS**

The Sixth Amendment to the U.S. Constitution guarantees defendants the right to representation by an attorney in criminal prosecutions and in certain other criminal proceedings when there is a risk of actual deprivation of a person’s liberty. *Argersinger v. Hamlin*, 407 U.S. 25, 40 (1972). If a defendant is indigent and cannot afford to pay an attorney, the court will, in an appropriate case, appoint a qualified attorney to represent the defendant. Under Tennessee law, “[t]he district public defender has the duty and responsibility of representing indigent persons for whom the district public defender has been appointed as counsel by a court.” Tenn. Code Ann. § 8-14-104(a).

Tennessee law vests general sessions courts with certain criminal jurisdiction. *Id.* § 16-15-501(a) (general sessions judges have “all of the jurisdiction” and authority “formerly conferred by law upon justices of the peace in [criminal cases]”). Misdemeanor defendants may enter guilty pleas or request a trial with the general sessions court by ceding to its jurisdiction and waiving the preliminary hearing, grand jury indictment, and jury trial. *Id.* § 40-1-109. In felony cases, general sessions courts also have jurisdiction to hold preliminary hearings to determine if there is probable cause to believe the defendant is guilty of the charged offense, and if so, the court may bind the defendant over for appropriate action by the grand jury. Tenn. R. Crim. P. 1(b)(3), 5.1(b); *see also Solomon v. State*, 529 S.W.2d 743, 746 (Tenn. Crim. App. 1975); *Lewis v. Metro. Gen. Sessions Court for Nashville*, 949 S.W.2d 696, 701 (Tenn. Crim. App. 1996) (general sessions court jurisdiction over felony matters is not limited to preliminary hearings).

Thus, general sessions courts in Tennessee have jurisdiction over matters that may involve “indigent persons” who are entitled to legal representation—i.e., persons “who do[] not possess sufficient means to pay reasonable compensation for the services of a competent attorney” to

represent them in criminal prosecutions, juvenile delinquency proceedings involving a possible deprivation of liberty, habeas corpus proceedings, or other post-conviction proceedings. Tenn. Code Ann. § 8-14-101.

General sessions courts are authorized, and indeed are required, to appoint the public defender to represent “indigent persons,” as defined in § 8-4-101, who appear in those courts. The court must inquire whether a person is indigent if that person appears without counsel in “a criminal prosecution or juvenile delinquency proceeding involving a possible deprivation of liberty.” *Id.* § 8-14-105(a). If the court finds that a person is “indigent,” and the person has not waived the right to counsel, the court must appoint the district public defender or other counsel to represent the person. *Id.* § 8-14-105(d).

Moreover, “[a]ll general sessions . . . courts shall appoint counsel to represent indigent defendants and other parties who have a constitutional or statutory right to representation . . . according to the procedures and standards set forth in” Tennessee Supreme Court Rule 13. Tenn. Sup. Ct. R. 13 § 1(c). Under the rules of the Tennessee Supreme Court and as applicable to the question here, courts appointing counsel for an indigent defendant “shall appoint the district public defender’s office . . . or other attorneys employed by the state for indigent defense . . . if qualified . . . and no conflict of interest exists, unless in the sound discretion of the trial judge appointment of other counsel is necessary.” Tenn. Sup. Ct. R. 13 § 1(e)(4)(A).

Once a general sessions judge appoints a district public defender as counsel for an indigent defendant, “[t]he district public defender has the duty and responsibility of representing indigent persons for whom the district public defender has been appointed as counsel by a court.” Tenn. Code Ann. § 8-14-104(a). It follows that district public defenders have the duty and responsibility to accept appointments to represent indigent persons who appear in general sessions courts in any criminal prosecution or juvenile delinquency proceeding involving a possible deprivation of liberty.

JONATHAN SKRMETTI  
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN  
Solicitor General

BROOKE HUPPENTHAL  
Assistant Attorney General

Requested by:

The Honorable William Lamberth  
State Representative  
Majority Leader  
425 5<sup>th</sup> Ave. N.  
Suite 602 Cordell Hull Bldg.  
Nashville, TN 37243