

HOUSE BILL 1581

By Jernigan

AN ACT to amend Tennessee Code Annotated, Chapter 212 of the Public Acts of 1993 and Chapter 667 of the Public Acts of 2002, relative to environmental courts.

WHEREAS, this legislation will re-affirm and ratify Chapter 212 of the Public Acts of 1993 and Chapter 667 of the Public Acts of 2002, allowing the creation of an Environmental Court and authorizing an Environmental Court referee; and

WHEREAS, after the Tennessee General Assembly enacted Chapter 212 of the Public Acts of 1993, the metropolitan council for the Metropolitan Government of Nashville and Davidson County unanimously approved Ordinance No. 094-930, officially designating Division IV of the Davidson County General Sessions Court as the Environmental Court; and

WHEREAS, the Tennessee General Assembly has authorized the creation of other Environmental Courts throughout the State, recognizing that such courts play an important role in addressing violations of local health, safety, and welfare ordinances and public nuisances; and

WHEREAS, all General Sessions Courts in Tennessee, including the Davidson County General Sessions Court, operate under the authority and exercise the powers granted to them under Tennessee law and local law; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. In addition to the powers that the Davidson County General Sessions Court previously held under state or local law, the metropolitan council for the Metropolitan Government of Nashville and Davidson County may designate Division IV of the Davidson County General Sessions Court as the Environmental Court.

SECTION 2. In making such designation, the judge of Division IV is granted the power to issue injunctions, both mandatory and prohibitory, as provided in Rule 65 of the Tennessee Rules of Civil Procedure. The judge may order any defendant found guilty of violating any metropolitan ordinance relating to health, housing, fire, land subdivision, building, or zoning to correct such violation at the defendant's own expense. In a case involving the alleged violation of any ordinance relating to health, housing, fire, land subdivision, building, or zoning, the judge may appoint a master to aid the court. Rule 53 of the Tennessee Rules of Civil Procedure shall govern the appointment, power, and duty of the master.

SECTION 3. The judge of Division IV may also punish a person for contempt who, having been ordered to correct a violation of any metropolitan ordinance relating to health, housing, fire, land subdivision, building, or zoning, willfully fails to obey such order within the designated day and at the designated time as given by court order. The punishment for contempt in such cases is limited to a monetary penalty of not more than fifty dollars (\$50.00) and confinement for not more than five (5) days for each violation.

SECTION 4. The judge of Division IV may also appoint one (1) or more suitable persons to act as referees at the pleasure of the judge. A referee shall be licensed to practice law in this state and shall hold office at the pleasure of the judge. The compensation of a referee shall be fixed by the judge with the approval of the legislative body of the county to which this act applies, and paid from public funds. The judge may direct that any case or class of cases shall be heard in the first instance by the referee in all cases wherein the Division IV court has jurisdiction in the manner provided for the hearing of such cases by the court. A referee has the same authority as the judge to issue any and all process. The referee in the conduct of the proceedings has the powers of a trial judge. Any party may, within five (5) days after a case is heard by a referee, excluding nonjudicial days, file a request with the court for a hearing by the judge of Division IV. The judge also may, at his or her discretion, order a rehearing of any matter heard before a referee, and shall allow a hearing if a request for such hearing is filed as herein prescribed. Unless the judge orders otherwise, the referee's recommendation shall be

the decree of the court pending a rehearing. Where no hearing before the judge is requested or the right to a hearing is waived, the referee's findings become the decree of the court.

SECTION 5. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the metropolitan council for the Metropolitan Government of Nashville and Davidson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 6. For the purpose of approving or rejecting this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 5 and shall apply to any pending Environmental Court cases.