

**STATE OF TENNESSEE**  
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August 19, 2009

Opinion No. 09-151

Authority of Shelby County Judicial Commissioners to Hear Orders of Protection

**QUESTION**

Does 2009 Public Chapter 391, which provides that the tenth division of the Shelby County General Sessions Court has exclusive jurisdiction over matters involving domestic violence, orders of protection, domestic assault, and all other cases incident to domestic abuse, supersede Tenn. Code Ann. § 40-1-111(a)(1)(A)(v), which allows the delegation of authority to judicial commissioners to hear certain matters involving domestic violence?

**OPINION**

No. The exclusive jurisdiction granted to the tenth division of the Shelby County General Sessions Court over matters involving domestic violence, including orders of protection, does not supersede the authority of the tenth division General Sessions Court judges to designate judicial commissioners to hear such matters pursuant to Tenn. Code Ann. § 40-1-111(a)(1)(A)(v).

**ANALYSIS**

The recent passage of Public Chapter Number 391, to be codified as Tenn. Code Ann. § 16-15-5014, assigned exclusive jurisdiction over domestic violence matters in Shelby County to the tenth division of the Shelby County General Sessions Court.<sup>1</sup> You have asked whether this statute supersedes the authority of judicial commissioners to hear orders of protection pursuant to Tenn. Code Ann. § 40-1-111(a)(1)(A)(v), which allows judicial commissioners to issue “injunctions and other appropriate orders as designated by the general sessions judges in cases of alleged domestic violence.”

The Tennessee Supreme Court has held that it is assumed that “whenever the legislature enacts a provision, it is aware of other statutes relating to the same subject matter.” *Shorts v. Bartholomew*, 278 S.W.3d 268, 277 (Tenn. 2009) (quoting *Wilson v. Johnson County*, 879 S.W.2d 807, 810 (Tenn. 1994)). The Court has further held that “[u]nless the newer statute

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<sup>1</sup>This office previously opined that the legislature had the authority to vest the tenth division of the Shelby County General Sessions Court with this exclusive jurisdiction. Op. Tenn. Att’y Gen. 09-105 (June 2, 2009).

expressly repeals or amends the old one, the new provision is presumed to be in accord with the same policy embodied in the prior statutes; thus, statutes ‘in pari materia’— those relating to the same subject or having a common purpose – are to be construed together.” *Id.* The Court has also stated that statutes on the same subject must be interpreted “so that they operate in harmony, not in conflict with each other.” *In re Akins*, 87 S.W.3d 488, 493 (Tenn. 2002) (citing *Parkridge Hospital, Inc. v. Woods*, 561 S.W.3d 754, 755 (Tenn. 1978)).

It has long been settled in Tennessee that delegation of duties to a judicial commissioner does not create an inferior court. *State v. Bush*, 626 S.W.2d 470, 472 (Tenn. Crim. App. 1981). “The duties fixed by the legislation for judicial commissioners are characteristic of those of a ‘magistrate’ and not of a ‘court.’” *Id.* at 473. As such, delegation of specific duties to a judicial commissioner does not interfere with the jurisdiction of the General Sessions Court.

We believe that Tenn. Code Ann. §§ 16-15-5014(b) and 40-1-111(a)(1)(A)(v) should be construed in harmony such that judicial commissioners in Shelby County may hear orders of protection if designated to do so by the tenth division of the Shelby County General Sessions Court. Thus, Tenn. Code Ann. § 16-15-5014(b) does not supersede the authority of judicial commissioners pursuant to Tenn. Code Ann. § 40-1-111(a)(1)(A)(v) to issue “injunctions and other appropriate orders . . . in cases of alleged domestic violence” if designated to do so by the tenth division of the Shelby County General Sessions Court.

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