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No. 6 of 2018

Third Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to make jurisdiction for criminal matters exercisable in a division of the High Court to be known as "the Criminal Division" and to make jurisdiction for criminal and traffic matters exercisable in a division of Summary Courts to be known as "the District Criminal and Traffic Courts" and to make provision for matters connected therewith

THE CRIMINAL DIVISION AND DISTRICT CRIMINAL
AND TRAFFIC COURTS BILL, 2018

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to make jurisdiction for criminal matters exercisable in a division of the High Court to be known as “the Criminal Division” and to make jurisdiction for criminal and traffic matters exercisable in a division of Summary Courts to be known as “the District Criminal and Traffic Courts”.

The Bill contains 5 Parts and 25 clauses.

PART I—PRELIMINARY

Clause 1 would set out the short title of the Bill.

Clause 2 would provide for the Bill to come into operation on Proclamation.

Clause 3 would provide for the interpretation of certain words and phrases, and for the reference to certain words and phrases under any written law to have a specific meaning in relation to a special criminal matter.

PART II—THE CRIMINAL DIVISION OF THE HIGH COURT

Clause 4 would provide for the establishment of a Criminal Division of the High Court which shall comprise “the Criminal Court”.

Clause 5 would prescribe the authority and jurisdiction of the Criminal Court.

Clause 6 would prescribe the sittings of the Criminal Court.

Clause 7 would provide for the assignment of Judges and Masters to the Criminal Court.

Clause 8 provide for a Judge or Master when sitting in the Criminal Court to be known as “a Criminal Court Judge” or a “Criminal Court Master”, respectively.

Clause 9 would prescribe the powers of Criminal Court Judges and Criminal Court Masters, including the power to exercise the jurisdiction of a Magistrate in criminal matters.

Clause 10 would prescribe the authority and jurisdiction of a Criminal Court Master.

Clause 11 would provide for a Criminal Court Master to have all the rights, immunities and privileges of a Criminal Court Judge in the exercise of his jurisdiction in relation to a criminal matter.

PART III—THE DISTRICT CRIMINAL AND TRAFFIC COURTS

Clause 12 would provide for a Summary Court to be known as “a District Criminal and Traffic Court” when exercising authority and jurisdiction in relation to a criminal matter or a traffic violation.

Clause 13 would provide for a Magistrate when sitting in a District Criminal and Traffic Court to be known as “a District Court Judge”.

Clause 14 would provide for a District Criminal and Traffic Court to have the power to conduct hearings by telephone, video conference of any other appropriate electronic means.

Clause 15 would provide for there to be a Senior Magistracy Registrar and Clerk of the Court in the Judicial and Legal Service. It would also provide for the Senior Magistracy Registrar and Clerk of the Court to be *ex officio* a Justice of the Peace and Commissioner of Oaths and for him to report to the Chief Magistrate.

Clause 16 would provide for Magistracy Registrars and Clerks of the Court to be *ex officio* Justices of the Peace and Commissioners of Oaths, and for them to report to the Senior Magistracy Registrar and Clerk of the Court.

Clause 17 would prescribe the functions and duties of the Senior Magistracy Registrar and Clerk of the Court and Magistracy Registrars and Clerks of the Court.

PART IV—ADMINISTRATION OF THE CRIMINAL DIVISION OF THE HIGH COURT AND THE DISTRICT CRIMINAL AND TRAFFIC COURTS

Clause 18 would provide for the establishment of the Criminal and Traffic Court Administration Department.

Clause 19 would provide for the Criminal and Traffic Court Administration Department to be headed by a Deputy Court Executive Administrator.

Clause 20 would provide for a Criminal Division Administrator and a District Criminal and Traffic Court Administrator.

Clause 21 would provide for the staff of the Criminal and Traffic Court Administration Department.

Clause 22 would provide for there to be a Court Manager at the Criminal Court and at each location of a District Criminal and Traffic Court and for Assistant Court Managers to be assigned to the Criminal Court or to a District Criminal and Traffic Court to assist the Court Manager.

PART V—MISCELLANEOUS

Clause 23 would provide for the staff of the Criminal Court and of the District Criminal and Traffic Courts to make an oath or affirmation of secrecy prior to the assumption of duty.

Clause 24 would empower the Rules Committee to make Rules of Court to establish a special criminal court procedure for the management of case types and offences determined to be appropriate for such procedure by the Chief Justice, and generally to give effect to the Act.

Clause 25 would provide for the consequential amendments to be made to the Judicial and Legal Service Act, Chap. 6:01.

The Schedule would provide details of the amendments made to the Judicial and Legal Service Act, Chap. 6:01.

THE CRIMINAL DIVISION AND DISTRICT CRIMINAL
AND TRAFFIC COURTS BILL, 2018

Arrangement of Clauses

PART I
PRELIMINARY

Clause

1. Short title
2. Commencement
3. Interpretation

PART II

THE CRIMINAL DIVISION OF THE HIGH COURT

4. Establishment of Criminal Division
5. Authority and jurisdiction in criminal matters exercisable by the Criminal Court
6. Sittings of the Criminal Court
7. Assignment of Judges and Masters to the Criminal Court
8. Criminal Court Judge and Criminal Court Master
9. Powers of a Criminal Court Judge and a Criminal Court Master
10. Authority and jurisdiction of Criminal Court Masters
11. Rights, immunities and privileges of Criminal Court Master

PART III

THE DISTRICT CRIMINAL AND TRAFFIC COURTS

12. District Criminal and Traffic Courts
13. District Court Judges
14. Hearings of District Criminal and Traffic Courts
15. Senior Magistracy Registrar and Clerk of the Court
16. Magistracy Registrars and Clerks of the Court
17. Functions and duties of the Senior Magistracy Registrar and Clerk of the Court and Magistracy Registrars and Clerks of the Court

PART IV

ADMINISTRATION OF THE CRIMINAL DIVISION OF THE HIGH COURT AND THE DISTRICT CRIMINAL AND TRAFFIC COURTS

18. Establishment of the Criminal and Traffic Court Administration Department
19. Deputy Court Executive Administrator
20. Criminal Division Administrator and District Criminal and Traffic Court Administrator
21. Staff of Criminal and Traffic Court Administration Department
22. Court Managers and Assistant Court Managers

PART V

MISCELLANEOUS

23. Oath of Secrecy
24. Rules
25. Consequential amendments

BILL

AN ACT to make jurisdiction for criminal matters exercisable in a division of the High Court to be known as “the Criminal Division” and to make jurisdiction for criminal and traffic matters exercisable in a division of Summary Courts to be known as “the District Criminal and Traffic Courts” and to make provision for matters connected therewith

[, 2018]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I
PRELIMINARY

Short title **1.** This Act may be cited as the Criminal Division and District Criminal and Traffic Courts Act, 2018.

Commencement **2.** This Act comes into operation on a date fixed by the President by Proclamation.

Interpretation **3.** (1) In this Act—

Chap. 46:01 “child” has the meaning assigned to it under section 3 of the Children Act;

“Children Court” means the Children Court established under section 4(1) of the Family and Children Division Act;

No. 6 of 2016 “children matter” has the meaning assigned to it under section 3 of the Family and Children Division Act;

“Court Executive Administrator” means the person who, subject to the Chief Justice, is charged with responsibility for the administration of the Judiciary and heads the Department of Court Administration;

“Criminal Court” means the Criminal Division of the High Court established under section 4;

“Criminal Court Judge” means a Pusine Judge referred to in section 8(1);

“Criminal Court Master” means a Master referred to in section 8(2);

“criminal matter” means a criminal offence but does not include a children matter;

“Department of Court Administration” means the administrative arm of the Judiciary of Trinidad and Tobago which is headed by

the Court Executive Administrator of the Judiciary and comprises various administrative units;

“Deputy Court Executive Administrator” means the Deputy Court Executive Administrator referred to in section 19(1);

“District Criminal and Traffic Court” means a Summary Court referred to in section 12;

“District Court Judge” means a Magistrate referred to in section 13;

“Magistracy Registrar and Clerk of the Court” means a person holding the office of Magistracy Registrar and Clerk of the Court;

“Senior Magistracy Registrar and Clerk of the Court” means a person holding the office of Senior Magistracy Registrar and Clerk of the Court;

“traffic violation” has the meaning assigned to it under the Motor Vehicles and Road Traffic Act, but does not include a children Chap. 48:50 matter.

(2) In any written law in relation to proceedings in respect of a criminal matter or traffic violation, a reference to—

(a) the High Court shall be read and construed as a reference to the Criminal Division of the High Court;

(b) a Court of summary jurisdiction or a Magistrate’s Court or a Summary Court shall be read and construed as a reference to a District Criminal and Traffic Court;

(c) a Judge shall be read and construed as a reference to a Criminal Court Judge;

(d) a Master shall be read and construed as a reference to a Criminal Court Master;

- (e) a Magistrate shall be read and construed as a reference to a District Court Judge;
- (f) a Clerk of the Court shall be read and construed as a reference to a Senior Magistracy Registrar and Clerk of the Court; or
- (g) a Clerk of the Peace shall be read and construed as a reference to a Magistracy Registrar and Clerk of the Court.

PART II

THE CRIMINAL DIVISION OF THE HIGH COURT

Establishment of Criminal Division

4. There shall be a Criminal Division of the High Court which shall comprise a court known as “the Criminal Court”.

Authority and jurisdiction in criminal matters exercisable by the Criminal Court

5. On the commencement of this Act, authority and jurisdiction in all criminal matters exercisable by the High Court or a Court of summary jurisdiction shall be exercisable by the Criminal Court.

Sittings of the Criminal Court

6. (1) Sittings of the Criminal Court shall be held at such locations and at such times as the Chief Justice, in consultation with a Judge assigned to that Court, may appoint in accordance with the Supreme Court of Judicature Act.

Chap. 4:01

(2) Notwithstanding subsection (1), the Criminal Court may, when required and appropriate, sit at any time, and may conduct hearings by telephone, video conference or any other appropriate electronic means.

Assignment of Judges and Masters to the Criminal Court

7. (1) The Chief Justice may assign to the Criminal Court such Puisne Judges and Masters as he thinks fit.

(2) A Puisne Judge or Master assigned to the Criminal Court under subsection (1) may apply to the Chief Justice for reassignment to any other Court within the High Court.

8. (1) A Judge when sitting in the Criminal Court shall be known as “a Criminal Court Judge”.

Criminal Court
Judge and
Criminal
Court Master

(2) A Master when sitting in the Criminal Court shall be known as “a Criminal Court Master”.

9. A Criminal Court Judge or a Criminal Court Master shall, in addition to the powers conferred under the Supreme Court of Judicature Act, have all the powers exercisable by a Magistrate in criminal matters under—

Powers of a Criminal
Court Judge and a
Criminal Court
Master

(a) the Summary Courts Act, including the power to hear indictable offences summarily; and

Chap. 4:20

(b) any other written law.

10. (1) A Criminal Court Master shall exercise all the authority and jurisdiction of a Judge which are conferred on Masters under the Supreme Court of Judicature Act.

Authority and
jurisdiction of
Criminal Court
Masters

(2) Any order made by a Criminal Court Master shall have the same effect as if it had been made by a Criminal Court Judge.

11. Where a Criminal Court Master exercises jurisdiction in relation to any criminal matter, he shall have all the rights, immunities and privileges of a Criminal Court Judge in relation to that matter.

Rights, immunities
and privileges
of Criminal
Court Master

PART III

THE DISTRICT CRIMINAL AND TRAFFIC COURTS

12. A Summary Court when exercising its authority and jurisdiction in relation to a criminal matter or a traffic violation, shall be known as “a District Criminal and Traffic Court”.

District Criminal
and Traffic Courts

13. A Magistrate when sitting in a District Criminal and Traffic Court, shall be known as “a District Court Judge”.

District Court
Judges

Hearings of District
Criminal and Traffic
Courts

14. A District Criminal and Traffic Court may conduct hearings by telephone, video conference or any other appropriate electronic means.

Senior Magistracy
Registrar and Clerk
of the Court

15. (1) There shall be in the Judicial and Legal Service a Senior Magistracy Registrar and Clerk of the Court.

(2) The Senior Magistracy Registrar and Clerk of the Court shall be *ex officio* a Justice of the Peace and Commissioner of Oaths.

(3) The Senior Magistracy Registrar and Clerk of the Court shall report to the Chief Magistrate.

Magistracy
Registrars and
Clerks of the Court

16. (1) A Magistracy Registrar and Clerk of the Court shall be *ex officio* a Justice of the Peace and Commissioner of Oaths.

(2) A Magistracy Registrar and Clerk of the Court shall report to the Senior Magistracy Registrar and Clerk of the Court.

Functions and duties
of the Senior
Magistracy Registrar
and Clerk of the
Court and
Magistracy
Registrars and
Clerks of the Court

17. The functions and duties of the Senior Magistracy Registrar and Clerk of the Court and a Magistracy Registrar and Clerk of the Court are to—

- (a) supervise employees of a District Criminal and Traffic Court who are engaged in legal, *quasi-judicial* and other related duties and ensure compliance with the law;
- (b) be the Keeper of the Record of a District Criminal and Traffic Court;
- (c) be the custodian of anything detained by a District Court Judge in accordance with any written law;
- (d) perfect orders of a District Criminal and Traffic Court;
- (e) certify extracts of the proceedings of a District Criminal and Traffic Court;
- (f) certify appeals proceedings of a District Criminal and Traffic Court for transmission to the Court of Appeal;

- (g) fix and grant bail;
- (h) take and witness oaths;
- (i) draft or direct the drafting of complaints;
- (j) carry out any other function or duty required by an order of a District Criminal and Traffic Court, Practice Directions, Rules of Court or any other written law; and
- (k) perform any other functions or duties pertaining to the operation of a District Criminal and Traffic Court as may be required for the operations of that Court.

PART IV

ADMINISTRATION OF THE CRIMINAL DIVISION OF THE HIGH COURT AND THE DISTRICT CRIMINAL AND TRAFFIC COURTS

18. (1) There shall be established an administration department for the Criminal Division of the High Court and the District Criminal and Traffic Courts which shall be known as “the Criminal and Traffic Court Administration Department” and which shall be a subdepartment of the Department of Court Administration.

Establishment of the
Criminal and Traffic
Court Administration
Department

(2) The Criminal and Traffic Court Administration Department shall comprise:

- (a) a Human Resource Management Unit;
- (b) a Finance and Accounts Unit;
- (c) a Fines and Fees Unit;
- (d) a Records Management Unit;
- (e) a Court Reporting Unit;
- (f) a Statistical and Evaluation Unit;
- (g) a Drug Treatment Court Unit;
- (h) a Criminal Court Information Communications Technology Unit;

- (i) a Witness Support Unit;
- (j) a Bail Management Unit;
- (k) a Court Office Unit; and
- (l) such other units as may be determined by the Chief Justice.

Deputy Court Executive Administrator

19. (1) The Criminal and Traffic Court Administration Department shall be headed by a Deputy Court Executive Administrator who may be—

- (a) a public officer employed; or
- (b) employed on contract by the Court Executive Administrator for a term of up to five years but be eligible for re-engagement,

on terms and conditions equal to those of a Deputy Permanent Secretary and shall report to the Court Executive Administrator.

(2) The Deputy Court Executive Administrator shall have overall responsibility for the administration of the Criminal and Traffic Court Administration Department and may assign staff of the Criminal and Traffic Court Administration Department to the Criminal Court or a District Criminal and Traffic Court.

Criminal Division Administrator and District Criminal and Traffic Court Administrator

20. The Deputy Court Executive Administrator shall be assisted by a Criminal Division Administrator and a District Criminal and Traffic Court Administrator, both of whom shall possess the appropriate training and experience as required by the Judiciary.

Staff of Criminal and Traffic Court Administration Department

21. The Criminal and Traffic Court Administration Department shall, in addition to judicial officers, be staffed with an appropriate number of suitably qualified persons as determined from time to time by the Court Executive Administrator and shall include—

- (a) public officers; and

- (b) an appropriate number of other persons engaged on contract by the Court Executive Administrator and who shall hold office for a term not exceeding five years, but may be eligible for re-engagement.

22. (1) The Criminal Court and the District Criminal and Traffic Courts shall have in each location, a Court Manager who shall be responsible for the management of the particular location and may be assisted by Assistant Court Managers.

(2) The Court Executive Administrator shall assign Court Managers and Assistant Court Managers to the Criminal Court and to a District Criminal and Traffic Court.

(3) Notwithstanding subsection (1), the Court Executive Administrator may assign an Assistant Court Manager to a District Criminal and Traffic Court and the Assistant Court Manager shall be responsible for the management of the District Criminal and Traffic Court.

(4) The Court Managers of the Criminal Court shall report to the Criminal Division Administrator and the Court Managers of the District Criminal and Traffic Courts shall report to the District Criminal and Traffic Court Administrator.

(5) The Assistant Court Managers of the Criminal Court shall report to the Court Manager of the Criminal Court and the Assistant Court Managers of a District Criminal and Traffic Courts shall report to the Court Manager of the District Criminal and Traffic Court.

PART V

MISCELLANEOUS

23. A member of staff of the Criminal Court or a District Criminal and Traffic Court shall, prior to the assumption of duty, make an oath or affirmation of secrecy before a Judge or Justice of the Peace.

Rules

24. (1) The Rules Committee established under section 77 of the Supreme Court of Judicature Act may make Rules of Court—

(a) establishing a special criminal court procedure for the management of case types and offences referred to in subsection (2); and

(b) generally for carrying this Act into effect.

(2) The Chief Justice may, by Practice Direction, determine the case types and offences which are appropriate for the special criminal court procedure provided for in Rules of Court made under subsection (1)(a).

(3) Rules made under this section shall be subject to negative resolution of Parliament.

Consequential amendments
Chap. 6:01

25. The Judicial and Legal Service Act is amended to the extent as is specified in the Schedule.

SCHEDULE

(Section 25)

CONSEQUENTIAL AMENDMENTS

First Column

Second Column

The Judicial and Legal Service Act, Chap. 6:01

In the Second Schedule by inserting before the words “Magistracy Registrar and Clerk of the Court”, the words “Senior Magistracy Registrar and Clerk of the Court”.

Passed in the House of Representatives this _____ day of _____, 2018.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2018.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 6 of 2018

THIRD SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to make jurisdiction for criminal matters exercisable in a division of the High Court to be known as “the Criminal Division” and to make jurisdiction for criminal and traffic matters exercisable in a division of Summary Courts to be known as “the District Criminal and Traffic Courts” and to make provision for matters connected therewith

Received and read the

First time

Second time

Third time
