



August 24, 2024

Transportation of Persons with a Mental Illness

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Transportation of Persons with a Mental Illness

Reference Number: CTAS-1274

Pursuant to T.C.A. § 33-6-901, it is the duty of the sheriff to transport those who have been certified for emergency involuntary admission under Title 33, Chapter 6, Part 4, or nonemergency involuntary admission under Title 33, Chapter 6, Part 5, except for persons who are transported by:

- (A) A secondary transportation agent under this section;
- (B) A municipal law enforcement agency that meets the requirements for a secondary transportation agent under this section and is designated by the sheriff;
- (C) A person authorized under other provisions of this Title 33; or
- (D) One or more friends, neighbors, other mental health professionals familiar with the person, relatives of the person, or a member of the clergy.

T.C.A. § 33-6-901(a)(1).

The sheriff may designate a secondary transportation agent or agents for the county for persons with mental illness or serious emotional disturbance whom a physician or mandatory prescreening authority has evaluated and determined do not require physical restraint or vehicle security. A secondary transportation agent shall be available twenty-four hours per day, provide adequately for the safety and security of the person to be transported, and provide appropriate medical conditions for transporting persons for involuntary hospitalization. The sheriff shall take into account in designating a secondary transportation agent or a municipal law enforcement agency both its funding and the characteristics of the persons who will be transported. The sheriff shall consult with the county mayor before designating a secondary transportation agent. A secondary transportation agent has the same duties and authority under Title 33, Chapter 6, in the detention or transportation of those persons as the sheriff. The designation of a transportation agent other than the sheriff is a discretionary function under T.C.A. § 29-20-205. If a mandatory prescreening agent, physician, or licensed psychologist with health service provider designation, who is acting under T.C.A. § 33-6-404(3)(B), determines that the person does not require physical restraint or vehicle security, then any person identified in subdivision (a)(1)(D) may, instead of the sheriff, transport the person at the transporter's expense. T.C.A. § 33-6-901(a)(2).

If a physician, psychologist, or designated professional, operating under T.C.A. § 33-6-404(3)(B)(iii), determines to a reasonable degree of professional certainty that the person subject to transportation does not require physical restraint or vehicle security and does not pose a reasonable risk of danger to the person's self or others, then the sheriff may permit one or more persons designated under T.C.A. § 33-6-901, other than the sheriff or secondary transportation agent, to transport the person; provided, that the person or persons provide proof of current automobile insurance. T.C.A. § 33-6-901(a)(3)(A).

Before a person is transported, the sheriff or other designated transportation agent shall give the notice required by T.C.A. § 33-6-406(b), along with the name or names of the person or persons who will actually transport the person subject to admission to a hospital or treatment resource. The person or persons designated to transport under T.C.A. § 33-6-901 must comply with the requirements of T.C.A. § 33-6-406(b)(2) and T.C.A. § 33-6-407(c), and must provide the original of the certificate completed under T.C.A. § 33-6-404(3)(B)(ii) to the hospital or treatment resource. T.C.A. § 33-6-901(a)(3)(A).

When making this determination, the physician, psychologist or designated professional operating under T.C.A. § 33-6-404(3)(B)(iii) shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from that protected activity. T.C.A. § 33-6-901(a)(3)(B).

When making this determination, if the physician, psychologist or designated professional operating under T.C.A. § 33-6-404(3)(B)(iii) is an agent of a hospital, health care facility, or community mental health center, that hospital, health care facility, or community mental health center shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from this agent's protected activity and from the transportation of the person to and from the facility. T.C.A. § 33-6-901(a)(3)(C).

When a sheriff or secondary transportation agent is required to transport a person to a hospital or treatment resource for screening, evaluation, diagnosis or hospitalization, the county in which the person is ini-

tially transported by the sheriff or secondary transportation agent is responsible for the remainder of such person's transportation requirements. The initial transporting county is responsible for the continuing transportation of the person even if the person is assessed, diagnosed, screened or evaluated in a second county before being admitted to a facility, hospital or treatment resource in a third county. If the person is transported to a hospital or treatment resource by the sheriff or secondary transportation agent of a county other than the initial transporting county, the sheriff or secondary transportation agent actually providing transportation may bill the initial transporting county for transportation costs. T.C.A. § 33-6-901(b).

EMERGENCY INVOLUNTARY ADMISSION. If the person certified for admission under T.C.A.

§ 33-6-404 is not already at the facility, hospital or treatment resource at which the person is proposed to be admitted, the physician, psychologist or designated professional who completed the certificate of need shall give the sheriff or the transportation agent the original of the certificate and turn the person over to the custody of the sheriff or transportation agent who shall transport the person to a hospital or treatment resource that has available suitable accommodations for the person for proceedings under T.C.A.

§ 33-6-407; provided, that, if admission is sought to a state-owned or operated hospital or treatment resource, the physician, psychologist or designated professional who completed the certificate of need shall also provide to the sheriff or transportation agent a written statement verifying that the state-owned or operated hospital or treatment resource has been contacted and has available suitable accommodations, and the sheriff or transportation agent shall not be required to take custody of the person for transportation unless both the original of the certificate and the written statement are provided. If the original of the certificate is unavailable, then an identical hard copy or electronic copy submitted by reliable electronic means must be accepted for purposes of this section. Failure of the sheriff or other county transportation agent to provide both a certificate of need and the written statement to the receiving state-owned or operated hospital or treatment resource for proceedings under T.C.A. § 33-6-407 shall result in all costs attendant to the person's admission and treatment being assessed to the transporting county. T.C.A. § 33-6-406(a).

Before transportation begins, the sheriff or transportation agent shall notify the hospital or treatment resource at which the person is proposed to be admitted as to where the person is and the best estimate of anticipated time of arrival at the hospital or treatment resource. The sheriff or transportation agent shall notify the hospital or treatment resource of the anticipated time of arrival. If the sheriff or transportation agent has given notice and arrives at the hospital or treatment resource within the anticipated time of arrival, then the sheriff or transportation agent is required to remain at the hospital or treatment resource long enough for the person to be evaluated for admission under T.C.A. § 33-6-407, but not longer than one hour and forty-five minutes. After one hour and forty-five minutes, the person is the responsibility of the evaluating hospital or treatment resource, and the sheriff or transportation agent may leave. T.C.A. § 33-6-406(b)(1)-(2). In Shelby County the sheriff or transportation agent is relieved of further transportation duties after the person has been delivered to the hospital or treatment facility, and the transportation duties are assumed by appropriate personnel of the hospital or treatment facility. T.C.A. § 33-6-406(b)(3).

If, after evaluation, the person is not subject to admission and the sheriff or transportation agent is still under a duty to remain at the hospital or facility, the sheriff or transportation agent must return the patient to the county from which the person was transported. If, after evaluation, the person is not subject to admission and the sheriff or transportation agent is no longer under a duty to wait at the hospital or facility, the hospital or facility has the responsibility to return the person to the county from which the person was transported. T.C.A. § 33-6-407(c) and (d).

GRANT PROGRAM. Subject to annual appropriations, there is established a grant program to assist sheriffs required to transport persons to a hospital or treatment resource for emergency mental health transport under this section. The Department of Finance and Administration, in consultation with the Department of Mental Health and Substance Abuse Services and the Division of TennCare, shall develop and administer the grant program. Assistance from this grant program must not be provided for emergency mental health transports where a physician, psychologist, or designated professional determines that the person can be transported by one or more friends, neighbors, or other mental health professionals familiar with the person, relatives of the person, or a member of the clergy pursuant to T.C.A. § 33-6-901.

A sheriff may contract with one or more third parties or other law enforcement agencies to transport persons to a hospital or treatment resource in accordance with this section. The sheriff shall deem a third party or law enforcement agency contracted to perform this function to be the designated secondary transportation agent pursuant to T.C.A. § 33-6-901. Any contract entered into under this subsection (c) is subject to audit by the comptroller of the treasury or the comptroller's designee.

A sheriff may receive grant funds provided under this subsection (c) and pay the grant funds to third parties or other law enforcement agencies with which the sheriff contracts to transport persons to a hospital or treatment resource in accordance with this section. The receipt or expenditure of grant funds received by a sheriff under this subsection (c) is subject to audit by the comptroller of the treasury or the comptroller's designee.

T.C.A. § 33-6-406(c)(1)-(3).

NONEMERGENCY INVOLUNTARY ADMISSION. When a person is about to be admitted to a hospital or treatment facility under the provisions of Title 33, Chapter 6, Part 5, the court will arrange the transportation of the person to the hospital. Whenever practicable, the person to be hospitalized will be permitted to be accompanied by one or more friends or relatives, who must travel at their own expense. Any reputable and trustworthy relative or friend of the person who will assume responsibility for the person's safe delivery may be allowed to transport the person to the hospital if such relative or friend will do so at their own expense. T.C.A. § 33-6-902(a).

Pending removal to a hospital, a person with mental illness or serious emotional disturbance taken into custody or ordered to be hospitalized under Title 33, Chapter 6, Part 5, may be detained in the person's home or in some suitable facility under such reasonable conditions as the court may order, but the person shall not be detained in a nonmedical facility used for the detention of those charged with or convicted of criminal offenses. Reasonable measures necessary to assure proper care of a person temporarily detained, including provision for medical care, must be taken. T.C.A. § 33-6-902(b).

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