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Appointment of Jailer

Dear Reader:

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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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Appointment of Jailer

Reference Number: CTAS-1338

Under the common law the sheriff had the right to appoint a jailer. *Felts v. City of Memphis*, 39 Tenn. 650 (1859). The right of the sheriff to appoint a jailer has been codified in T.C.A. § 41-4-101, wherein it states that the sheriff is authorized to appoint a jailer for whose acts the sheriff is civilly responsible.

Under Tennessee law, "[t]he sheriff of the county ... may appoint a jailer, for whose acts the sheriff is civilly responsible." Tenn.Code Ann. § 41-4-101 (1997). Jailers are charged with the following responsibilities: to receive and safely keep convicts on their way to the state or federal penitentiary, to file and keep safe under the sheriff's direction the mittimus or process by which a prisoner is committed or discharged from jail, to determine within their discretion what type of precautions to take for guarding against escape and to prevent the importation of drugs, to provide support, to furnish adequate food and bedding, to enforce cleanliness in the jails, to convey letters from prisoners to their counsel and others, and to admit persons having business with the prisoner.

Sowards v. Loudon County, 203 F.3d 426, 436 (6th Cir. 2000). See also *United States v. Hill*, 60 F. 1005, 1009 (6th Cir. 1894) (... the Tennessee statute makes the sheriff civilly responsible for the acts of the jailer whom he appoints.). See also *Davis v. Hardin County*, 2002 WL 1397276, *3 - *4 (W.D. Tenn. 2002), for a discussion of the differences between deputies and jailers for the purposes of the Tennessee Governmental Tort Liability Act.

See Jailer Qualifications

Jailer Qualifications and Training Requirements

Reference Number: CTAS-1241

It is the duty of the sheriff to take charge and custody of the jail and of the prisoners therein. The sheriff is charged with keeping the prisoners personally or by deputies or jailer until they are lawfully discharged. T.C.A. § 8-8-201(a)(3). Pursuant to T.C.A. § 41-4-101 the sheriff has the authority to appoint a jailer for whose acts the sheriff is civilly responsible. See *Davis v. Hardin County*, 2002 WL 1397276, *3 - *4 (W.D. Tenn. 2002), for a discussion of the differences between deputies and jailers for the purposes of the Tennessee Governmental Tort Liability Act.

The Tennessee Corrections Institute defines a jailer as "one who is charged by an institution to detain or guard inmates." Rules of the Tennessee Corrections Institute, Rule 1400-1-.03 (40). The attorney general has opined that a jailer is one whose primary duty is to confine and control persons held in lawful custody. Op. Tenn. Atty. Gen. 85-222 (July 29, 1985).

Minimum Qualifications

(a) After July 1, 2006, any person employed as a jail administrator, jailer, corrections officer, or guard in a county jail or workhouse shall:

1. Be at least eighteen (18) years of age;
2. Be a citizen of the United States;
3. Be a high school graduate or possess its equivalency, which shall include a general educational development (GED) certificate;
4. Not have been convicted of, or pleaded guilty to, or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or municipal ordinances relating to force, violence, theft, dishonesty, gambling, liquor, controlled substances or controlled substance analogues;
5. Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;
6. Have the person's fingerprints on file with the Tennessee bureau of investigation;
7. Have passed a physical examination by a licensed physician;
8. Have a good moral character as determined by a thorough investigation conducted by the sheriff's office; and
9. Have been certified by a Tennessee licensed health care provider qualified in the psychiatric or psychological field as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American

Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

(b)

1. Requirements for minimum qualifications as set forth in subsection (a) shall be mandatory and binding upon any municipality, county or political subdivision of this state.
2. Any person who appoints any applicant, who, to the knowledge of the appointer, fails to meet the minimum qualifications as set forth in subsection (a), and any person who signs the warrant or check for the payment of the salary of any person who, to the knowledge of the signer, fails to meet the minimum qualifications as set forth in this section, commits a Class A misdemeanor and upon conviction shall be subject to a fine not exceeding one thousand dollars (\$1,000).
3. This section shall not apply to any jail administrator, jailer, corrections officer, or guard hired by any municipality, county, or political subdivision of this state prior to July 1, 2006.

(c) Nothing in this chapter shall be construed to preclude an employing agency from establishing qualifications and standards for hiring and training jail or workhouse employees that exceed those set forth in this section.

TCA 41-4-144 [Acts 2006, ch. 859, § 1]

A criminal record check shall be conducted on all new facility employees, service providers with continuous access to restricted areas, contractors, and volunteers prior to their assuming duties to identify if there are criminal convictions that have a specific relationship to job performance. This criminal record check includes comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matters with potential terrorism connections is returned on the person, this information shall be forwarded to the local Joint Terrorism Task Force or other similar agency. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(2).

Minimum Qualifications – Waivers

The Board of Control of the Tennessee Corrections Institute is empowered to and shall establish criteria for determining whether to waive the minimum qualifications required to be a jail administrator, workhouse administrator, jailer, corrections officer, or guard in a county jail or workhouse, as provided in T.C.A. § 41-4-144.

The board shall not grant waivers for any person hired as a jail administrator, workhouse administrator, jailer, corrections officer, or guard in any county jail or workhouse who has been dishonorably discharged from the military, has any mental impairment which affects the person's ability to perform any essential function of the job with or without a reasonable accommodation, has a conviction for domestic assault or a felony conviction.

The board's decision to grant waivers is appealable to the chancery court.

T.C.A. § 41-7-106.

Oath

Jail deputies must take the same oaths as the sheriff, which are certified, filed, and endorsed in the same manner as the sheriff's. T.C.A. § 8-18-112.

Training Requirements

Prior to assuming duties, all detention facility employees, support employees and non-facility support staff shall receive orientation training regarding the functions and mission of the facility under the supervision of a qualified detention officer. This training may be accomplished thorough classroom instruction, supervised on-the-job training, an individual review of policies and procedures, or any combination of the three and shall include:

- (a) Facility policies and procedures;
- (b) Suicide prevention;
- (c) Use-of-force;
- (d) Report writing;
- (e) Inmate rules and regulations;
- (f) Key control;
- (g) Emergency plans and procedures;
- (h) Cultural diversity;
- (i) Communication skills; and,
- (j) Sexual misconduct. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(4).

A facility training officer (FTO) shall coordinate the staff development and training program. This person shall have specialized training for that position (assigned as a primary or additional duty). The FTO shall complete the Training for Trainer (3T) course and attend the annual FTO Conference conducted by the Tennessee Corrections Institute. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(5)..

All support employees who have minimal inmate contact shall receive at least sixteen hours of facility training during their first year of employment. All employees in this category shall receive an additional sixteen hours of facility training each subsequent year of employment. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(6).

All non-facility support staff who have regular or daily inmate contact, shall receive a minimum of four hours continuing annual training, which may include:

- (a) Security procedures and regulations;
- (b) Supervision of inmates;
- (c) Signs of suicide risk;
- (d) Suicide precautions;
- (e) Use-of-force regulations and tactics;
- (f) Report writing;
- (g) Inmate rules and regulations;
- (h) Key control;
- (i) Rights and responsibilities of inmates;
- (j) Safety procedures;
- (k) All emergency plans and procedures;
- (l) Interpersonal relations;
- (m) Social/cultural lifestyles of the inmate population;
- (n) Cultural diversity;
- (o) CPR/first aid;
- (p) Counseling techniques;
- (q) Sexual harassment/sexual misconduct awareness;
- (r) Purpose, goals, policies, and procedures for the facility and the parent agency;
- (s) Security and contraband regulations;
- (t) Appropriate conduct with inmates;
- (u) Responsibilities and rights of employees;
- (v) Universal precautions;
- (w) Occupational exposure;
- (x) Personal protective equipment;
- (y) Bio-hazardous waste disposal; and,
- (z) Overview of the correctional field. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(7).

All detention facility employees, including part-time employees, whose primary duties include the industry, custody, or treatment of inmates shall be required during the first year of employment to complete a basic training program consisting of a minimum of forty hours and provided or approved by the Tennessee Corrections Institute. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(8).

All detention facilities employees, including part-time employees, whose primary duties include the industry, custody, or treatment of inmates shall be required to complete an annual in-service program designed to instruct them in specific skill areas of facility operations. This annual in-service shall consist of forty hours with at least 16 of these hours provided or approved by the Tennessee Corrections Institute. The remaining twenty-four hours may be provided by the facility if course content is approved and monitored by the Tennessee Corrections Institute. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(9).

A minimum number of hours of training and any additional courses for basic and in-service training shall be in compliance with the requirements established by the Tennessee Corrections Institute Board of Controls. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(10).

All facility employees who are authorized to use firearms and less lethal weapons shall receive basic and ongoing in-service training in the use of these weapons. Training shall include decontamination procedures for individuals exposed to chemical agents. All such training shall be recorded with the dates completed and kept in the employee's personnel file. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(11).

Facilities shall maintain records on the types and hours of training completed by each correctional employee, support employee and non-facility support staff. Rules of the Tennessee Corrections Institute, Rule 1400-1-.06(12).

Bond

There is no general law requirement that deputy sheriffs who work in the jail be bonded. However, in 2013, the Legislature amended T.C.A. § 8-19-101 to require county governments to obtain and maintain blanket surety bond coverage for all county employees not covered by individual bonds referenced elsewhere in statute. The minimum amount of such blanket bonds is one hundred fifty thousand dollars. T.C.A. § 8-19-101(e).

Certain Persons Disqualified as Bondsmen

Reference Number: CTAS-2139

The following persons or classes shall not be bail bondsmen or agents of bail bondsmen or surety companies and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, attorneys, police officers, convicted felons, committing magistrates, municipal or magistrate court judges, clerks or deputy clerks, sheriffs, deputy sheriffs and constables, and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners. T.C.A. 40-11-128. T.C.A. 40-11-313(a) states that it is unlawful for any person while serving as a constitutionally elected peace officer, or as such officer's deputy, or any duly elected or appointed county official to act as a professional bondsman, directly or indirectly.

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