County Technical Assistance Service
INSTITUTE for PUBLIC SERVICE

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Persons Confined to Jail

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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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Persons Confined to Jail

Reference Number: CTAS-1339

The sheriff is charged with receiving those persons lawfully committed to the jail and with keeping them until they are lawfully discharged. T.C.A. § 8-8-201(a)(3). This includes federal as well as state prisoners. *United States v. Hill*, 60 F. 1005, 1009 (6th Cir. 1894).

In addition to convicts sentenced to imprisonment in the county jail, the jail may be used as a prison for the safekeeping or confinement of the following persons:

1. Persons committed for trial for public offenses;
2. Inmates sentenced to imprisonment in the penitentiary, until their removal to the penitentiary;
3. Persons committed for contempt or on civil process;
4. Persons committed on failure to give security for their appearance as witnesses in any criminal cases;
5. Persons charged with or convicted of a criminal offense against the United States;
6. Insane persons, pending transfer to the insane hospital, or other disposition; and
7. All other persons committed thereto by authority of law.

T.C.A. § 41-4-103(a).

A county jail must accept all persons arrested pursuant to law by the sheriff or municipal police officers. Op. Tenn. Atty. Gen. No. 02-015 (Feb. 6, 2002). Additionally, the jailer is required to receive all persons arrested by officers of the Tennessee Department of Homeland Security and TVA peace officers. T.C.A. §§ 38-3-114 and 38-3-120. The jailer cannot refuse acceptance of an arrestee who complains about a medical problem or has an obvious injury needing medical attention. Op. Tenn. Atty. Gen. No. 02-015 (Feb. 6, 2002). A county jailer cannot require an arresting city police officer to take a prisoner for medical examinations prior to being accepted by the jailer; after a mittimus has been issued the jailer must receive the prisoner. Op. Tenn. Atty. Gen. No. U91-01 (1991).

The attorney general has opined that the sheriff does not have the authority to refuse to accept a prisoner accompanied by a valid mittimus, even when the jail has reached its design capacity, nor does the sheriff have the authority to refuse to accept a person arrested for a violation of state law prior to the issuance of a mittimus. Op. Tenn. Atty. Gen. No. 89-65 (April 28, 1989); Op. Tenn. Atty. Gen. No. 94-041 (March 31, 1994) (Likewise, this office is not aware of any grounds, absent an emergency medical situation or superseding court order, that would authorize a sheriff to refuse to accept a person arrested for a state violation for a temporary holding prior to the individual's appearance before a magistrate and the issuance of a mittimus.). *See also State v. Mitchell*, 593 S.W.2d 280, 282 (Tenn. 1980); *Wynn v. State*, 181 S.W.2d 332, 334 (Tenn. 1944) (The criminal statutes and rules permit "a temporary holding without a mittimus."). A mittimus is a court order that directs an officer to convey an individual to the jail and directs the jailer to receive and keep the individual. A mittimus is the authorization for commitment to a county jail.

Written policy and procedure shall ensure that inmates shall not be subjected to discrimination based on race, national origin, color, creed, sex, economic status or political belief. When both males and females are housed in the same facility, available services and programs shall be comparable. Rules of the Tennessee Corrections Institute, Rule 1400-1-.05(8). The Rules of the Tennessee Corrections Institute, Rule 1400-1-.17(3) further states that inmates with disabilities, including temporary disabilities, shall be housed and managed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, shall be designed for their use and shall provide for integration with other inmates. Program and service areas shall be accessible to inmates with disabilities.

Emergency Detention of a Person with a Mental Illness or Serious Emotional Disturbance

Reference Number: CTAS-2140

T.C.A 33-6-401 (as amended by Public Acts 2000, Chapter 947, section 1) permits for emergency detention: IF AND ONLY IF **(1)** a person has a mental illness or serious emotional disturbance, AND **(2)** the person poses an immediate substantial likelihood of serious harm under § 33-6-501 because of the

mental illness or serious emotional disturbance, THEN **(3)** the person may be detained under § 33-6-402 to obtain examination for certification of need for care and treatment.

T.C.A. 33-6-402 (as amended by Public Acts 2000, Chapter 947, Section 1) states that if an officer authorized to make arrests in the state, a licensed physician, a psychologist authorized under § 33-6-427(a), or a professional designated by the commissioner under § 33-6-427(b) has reason to believe that a person is subject to detention under § 33-6-401, then the officer, physician, psychologist, or designated professional may take the person into custody without a civil order or warrant for immediate examination under § 33-6-404 for certification of need for care and treatment.

T.C.A. 33-6-425 (as amended by Public Acts 2000, Chapter 947, Section 1) states that no defendant shall be detained at a jail or other custodial facility for the detention of persons charged with or convicted of criminal offenses, unless the defendant is under arrest for the commission of a crime.

Convicts En Route to the Penitentiary

Reference Number: CTAS-1340

It is the duty of the jailer to receive and safely keep, without any fee therefor, all convicts on their way to the penitentiary, whenever the sheriff or other officer in charge of such convicts may deem it necessary. T.C.A. § 41-4-104. *Sowards v. Loudon County*, 203 F.3d 426, 436 (6th Cir. 2000) (Jailers are charged with the following responsibilities: to receive and safely keep convicts on their way to the state or federal penitentiary, ...).

Delayed Commitment to the Department of Correction

Reference Number: CTAS-1341

Pursuant to T.C.A. § 8-8-201(a)(36), it is the duty of the sheriff to promptly turn over and transfer custody of any inmate sentenced to the Department of Correction who is being housed in the sheriff's local jail awaiting transfer when called upon to do so by a state official pursuant to T.C.A. § 40-35-212 or T.C.A. § 41-8-106**.** However, during times when the state prison population exceeds 95 percent of the relevant designated capacity, the governor may declare that a state of overcrowding emergency exists. T.C.A. § 41-1-503. Pursuant to T.C.A. § 41-1-504, upon declaring that an overcrowding emergency exists, the governor is required to invoke one or both of the following powers to reduce overcrowding:

1. Direct the board in writing to reduce the release eligibility dates of all male or female inmates, or both, excluding any inmate convicted by a court of escape, by a percentage sufficient to enable the board to consider immediately and to release on supervised parole enough inmates to reduce the in-house population of appropriate state correctional facilities to 90 percent of the relevant designated capacity.
2. Direct the commissioner in writing to notify all state judges and sheriffs that commitment to the department of felons who have been on bail prior to their convictions shall be stayed or otherwise delayed until up to 60 days after the in-house population of appropriate correctional facilities has been reduced to 90 percent of the relevant designated capacity either through normal release, contract sentencing, or the power granted in T.C.A. § 41-1-504(a)(1), or all such methods. Tenn. Attny. Gen 08-103 (May 6, 2008)

T.C.A. § 41-1-504(a)(1) and (a)(2). *State v. Lock*, 839 S.W.2d 436 (Tenn. Crim. App. 1992) (The governor can order the delay in prisoners being transferred from a local jail to a Department of Correction facility.).

The governor's directive invoking the power granted pursuant to T.C.A. § 41-1-504(a)(2) may include any conditions the governor may wish to impose as to which inmates or types of inmates will immediately be accepted by the Department of Correction or which inmates or types of inmates will be subject to the delayed intake directive, or both. The commissioner must transmit any conditions imposed by the governor to the judges and sheriffs in the notification that intake to the department has been delayed. T.C.A. § 41-1-506(a). The governor does not have the authority to direct that the commitment of an inmate be delayed any longer than six months from the date of sentencing or the date of the final judgment of the highest state appellate court to which an appeal is taken, whichever date is later. T.C.A. § 41-1-506(b). During times in which the power to delay the intake of inmates is invoked, a judge may

order the sheriff to take the inmate into local custody to await removal to the Department of Correction. T.C.A. § 41-1-506(c). Notwithstanding any other provision of law to the contrary, during the time that the power of restricted intake has been invoked pursuant to T.C.A. § 41-1-504(a)(2), no sheriff may convey an inmate to the Department of Correction unless authorized to do so. No sheriff shall be deemed to have violated any duty of office by not conveying such inmate when notified to do so. T.C.A. § 41-1-506(e).

Notwithstanding any other provision of law to the contrary, all prisoners sentenced to the Department of Correction whose commitments are delayed pursuant to Title 41, Chapter 1, Part 5, or pursuant to the order of a federal court, and who are being held by the county pending such commitment, may, at the discretion of the sheriff or workhouse superintendent, participate in appropriate academic, vocational and work-related programs that are available to persons sentenced to local jails or workhouses, and may be awarded time reduction credits as authorized by Title 41, Chapter 2, Part 1, for participation in such programs. T.C.A. § 41-1-510.

Removal to the State Penitentiary

Reference Number: CTAS-1342

In counties where, because of the insufficiency of the county jail or for any other cause, the court may be of opinion that the safekeeping of the convicts may require it, the court may order the immediate removal of convicts to the penitentiary or to the nearest branch prison, at the cost of the state, before the expiration of the time allowed to remove such convicts. Every such convict shall, as soon as possible after conviction, be safely removed and conveyed to the penitentiary or to one of the branch prisons by the person appointed by the commissioner of correction for that purpose. T.C.A. § 40-23-107. *Dover v. Rose*, 709 F.2d 436, 437 n.1 (6th Cir. 1983) (State trial judges in Tennessee have the authority to transfer prisoners in county jails to the state penitentiary or the nearest branch prison "where, because of the insufficiency of the county jail, or for any other cause, the court may be of opinion that the safekeeping of the convicts may require it, ...") *citing Chisom v. State,* 539 S.W.2d 831, 833 (Tenn. Crim. App.1976) (Clearly, the trial judge was within his authority to commit the defendant, a convicted rapist, to the penitentiary pending the outcome of any attendant appellate proceedings in his case.). *See Burt v. State*, 454 S.W.2d 182 (Tenn. Crim. App. 1970) (holding that transfer of convict to state penitentiary prior to final determination of appeal does not raise a constitutional question). *But see State v. Grey*, 602 S.W.2d 259 (Tenn. Crim. App. 1980) (holding that the trial court was without authority to transfer a pretrial detainee to the state penitentiary).

Federal Prisoners

Reference Number: CTAS-1343

The jailer is liable for failing to receive and safely keep all persons delivered under the authority of the United States to the like pains and penalties as for similar failures in the case of persons committed under authority of the state**.** However, the marshal or person delivering such prisoner under authority of the United States is liable to the jailer for fees and the subsistence of the prisoner while so confined, which shall be the same as provided by law for prisoners committed under authority of the state. The jailer will also collect from the marshal 50 cents a month for each prisoner, under the resolution of the first Congress, and pay the same to the county trustee forthwith, to be accounted for by the trustee as other county funds. T.C.A. § 41-4-105. *United States v. Hill*, 60 F. 1005, 1009 (6th Cir. 1894) (holding that where the sheriff is civilly responsible for the safe keeping of prisoners committed to his care, and any party aggrieved may sue on his official bond in the name of the state, the United States may, in such an action, recover, for allowing the escape of a prisoner under indictment by a federal grand jury, the expenses of the arrest and keeping of the prisoner, and money expended in recapturing him).

Pursuant to 18 U.S.C. 4002, for the purpose of providing suitable quarters for the safekeeping, care, and subsistence of federal prisoners, the United States attorney general may contract, for a period not exceeding three years, with the proper state or county authorities for the imprisonment, subsistence, care, and proper employment of federal prisoners. Federal prisoners may be employed only in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of the institutions of the state or political subdivision in which they are imprisoned. The rates to be paid for the care and custody of said persons must take into consideration the character of the quarters furnished, sanitary conditions, and quality of subsistence and may be such as will permit and encourage the proper authorities to provide reasonably decent, sanitary, and healthful quarters and subsistence for such persons.

Detention of Juveniles

Reference Number: CTAS-1344

A child alleged to be dependent or neglected may not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent. T.C.A. § 37-1-116(d). A child alleged to be delinquent or unruly may be detained in a jail or other facility for the detention of adults only if:

1. Other facilities listed in T.C.A. § 37-1-116(a)(3) are not available;
2. The detention is in a room separate and removed from those for adults; and
3. It appears to the satisfaction of the court that public safety and protection reasonably require detention, and it so orders.

T.C.A. § 37-1-116(a)(4). *See State v. Carroll*, 36 S.W.3d 854, 862 (Tenn. Crim. App. 1999) ("Tenn.Code. Ann. § 37-1-116 (1996) explicitly limits appropriate places of detention for juveniles, as opposed to custody of juveniles ...").

The sheriff or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime must immediately inform the court if a person who is or appears to be under 18 years of age is received at the facility, and must bring the person before the court upon request or deliver the person to a detention or shelter care facility designated by the court. T.C.A. § 37-1-116(b).

Pursuant to T.C.A. § 37-1-116(e), no child may be detained or otherwise placed in any jail or other facility for the detention of adults, except as provided in T.C.A. § 37-1-116(c) and (h). A juvenile may be temporarily detained for as short a time as feasible, not to exceed 48 hours, in an adult jail or lockup, if:

1. The juvenile is accused of a serious crime against persons, including criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery and extortion accompanied by threats of violence;
2. The county has a low population density not to exceed 35 people per square mile;
3. The facility and program have received prior certification by the Tennessee Corrections Institute as providing detention and treatment with total sight and sound separation from adult detainees and prisoners, including no access by trustees;
4. There is no juvenile court or other public authority or private agency as provided in T.C.A. § 37-1-116(f) able and willing to contract for the placement of the juvenile; and
5. A determination is made that there is no existing acceptable alternative placement available for the juvenile.

T.C.A. § 37-1-116(h).

The attorney general has opined "that a juvenile offender who has attained the age of majority before being convicted of an offense by a juvenile court may not be held in an adult facility, such as the local jail. Such a defendant may only be held in a juvenile detention facility ... and may not be held beyond the defendant's nineteenth birthday, regardless of whether the offense is a misdemeanor or a felony." Op. Tenn. Atty. Gen. No. 04-038 (March 12, 2004).

If a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime. T.C.A. § 37-1-116(c). After a petition has been filed in juvenile court alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, the court, before hearing the petition on the merits, may transfer the child to the sheriff of the county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction. T.C.A. § 37-1-134(a).

Juvenile Detention Facilities

Reference Number: CTAS-1345

Notwithstanding the provisions of T.C.A. § 37-1-116 to the contrary, in any facility that meets the following requisites of separateness, juveniles who meet the detention criteria of T.C.A. § 37-1-114(c) may be held in a juvenile detention facility that is in the same building or on the same grounds as an adult jail or lockup provided that no juvenile facility constructed or developed after January 1, 1995, may be located in the same building or directly connected to any adult jail or lockup facility complex:

1. Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;
2. Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, healthcare, dining, sleeping and general living activities;
3. Separate juvenile and adult staff, including management, security staff and direct care staff, such as recreational, educational and counseling. Specialized services staff, such as cooks, bookkeepers and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both; and
4. In the event that state standards or licensing requirements for secure juvenile detention facilities are established, the juvenile facility must meet the standards and be licensed or approved as appropriate.

T.C.A. § 37-1-116(i)(1).

In determining whether the criteria set out above are met, the following factors will serve to enhance the separateness of juvenile and adult facilities:

1. Juvenile staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the youth serving operations. Juvenile staff are specially trained in the handling of juveniles and the special problems associated with this group;
2. A separate juvenile operations manual, with written procedures for staff and agency reference, specifies the function and operation of the juvenile program;
3. There is minimal sharing between the facilities of public lobbies or office/support space for staff;
4. Juveniles do not share direct service or access space with adult offenders within the facilities, including entrance to and exits from the facilities. All juvenile facility intake, booking and admission processes take place in a separate area and are under the direction of juvenile facility staff. Secure juvenile entrances (sally ports, waiting areas) are independently controlled by juvenile staff and separated from adult entrances. Public entrances, lobbies and waiting areas for the juvenile detention program are also controlled by juvenile staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces and program/service spaces;
5. The space available for juvenile living, sleeping and the conduct of juvenile programs conforms to the requirements for secure juvenile detention specified by prevailing case law, prevailing professional standards of care, and by state code; and
6. The facility is formally recognized as a juvenile detention center by the state agency responsible for monitoring, reviewing or certifying of juvenile detention facilities.

T.C.A. § 37-1-116(i)(2).

Commitment of Defendant to Jail

Reference Number: CTAS-1346

It is the duty of the sheriff in whose custody the defendant is at the rendition of the judgment, or afterwards legally comes, to execute the judgment of imprisonment by committing the defendant, as soon as possible, to jail or to the warden of the penitentiary according to the exigency of the writ. T.C.A. § 40-23-103. With respect to a sentence of confinement to be served in the state penitentiary, the Tennessee Court of Criminal Appeals has interpreted "as soon as possible" to mean as soon as space is available at the penitentiary and that the courts should interpret "as soon as possible" in its most literal sense. *Carver v. State*, 2003 WL 21663688 (Tenn. Crim. App. 2003.).

A criminal sentence commences on the day the defendant legally comes into the custody of the sheriff for the execution of the judgment of imprisonment.*Kelly v. State*, 61 S.W.3d 341 (Tenn. Crim. App. 2000). *See also State v. Chapman*, 977 S.W.2d 122 (Tenn. Crim. App. 1997) (The sheriff is obligated to execute the judgment of imprisonment by committing the defendant and to keep a confined prisoner in his or her custody.); *Wilson v. State*, 882 S.W.2d 361, 364 (Tenn. Crim. App. 1994) (In this jurisdiction, a sentence commences "on the day on which the defendant legally comes into the custody of the sheriff for execution of the judgment of imprisonment." Furthermore, it is the duty of the sheriff "to execute the judgment of imprisonment by committing the defendant, as soon as possible, to jail.").

Sheriffs do not have the authority, as does the governor, to delay the commitment of inmates to their institutions. T.C.A. § 41-1-506(e); Op. Tenn. Atty. Gen. No. 89-65 (April 28, 1989). However, pursuant to T.C.A. § 55-10-402(f) the sheriff may delay the commitment of an individual convicted of a violation of

T.C.A. § 55-10-401 (driving under the influence of an intoxicant or drug) if space is not immediately available in the jail. If, in the opinion of the sheriff, space will not be available to allow an offender convicted of a violation of T.C.A. § 55-10-401, to commence service of the sentence, the sheriff shall use alternative facilities for the incarceration of the offender. *Kelly v. State*, 61 S.W.3d 341 (Tenn. Crim. App. 2000) ("[T]he State's delay of four years in executing [petitioner's] sentence and its failure to attempt the location of alternative facilities was, if not affirmatively improper, certainly grossly negligent.").

As used in T.C.A. § 55-10-402(f), "alternative facilities" include, but are not limited to, vacant schools or office buildings or any other building or structure that would be suitable for housing DUI offenders for short periods of time on an as-needed basis and licensed through the department of mental health and substance abuse services for the state.

Place of Confinement - Felony Offenders

Reference Number: CTAS-1347

A defendant convicted of a felony in this state is sentenced in accordance with Title 40, Chapter 35. T.C.A. § 40-35-104(a).

A defendant who is convicted of a felony and who is sentenced to a total sentence of at least one year but not more than three years shall not be sentenced to serve such sentence in the Department of Correction, if the legislative body for the county from which the defendant is being sentenced has either contracted with the department or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, such defendant must be sentenced to the local jail or workhouse and not to the department. T.C.A. § 40-35-104(b)(1).

A defendant who is convicted of a felony and who is sentenced to at least one year but not more than six years shall not be sentenced to serve such sentence in the department if the defendant is being sentenced from a county with a population of not less than 477,811 according to the 1980 federal census or any subsequent federal census, and the legislative body for any such county has contracted with the department or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, such defendant must be sentenced to the local jail or workhouse and not to the department. T.C.A. § 40-35-104(b)(2).

"Although one serving a sentence of three years or less (and six years or less in a county having a population not less than 477,811 in the 1980 census) may not be sentenced to the Department of Correction if the county has a contract with the Department, there is not authority for a sentence over six years to be served in a local jail or workhouse." *State v. Beard*, 2005 WL 2546964, n. 3 (Tenn. Crim. App. 2005).

In *State v. McDaniel*, 2002 WL 1732334 (Tenn. Crim. App. 2002), the defendant was convicted of two counts of manufacturing a Schedule II controlled substance. He was sentenced to concurrent three-year sentences. The trial court ordered that the defendant have split confinement with supervised probation after serving one year in the Tennessee Department of Correction. The defendant appealed this sentence, arguing, among other things, that his sentence should be served at the county workhouse pursuant to T.C.A. § 40-35-104(b)(1). The Tennessee Court of Criminal Appeals affirmed the judgment of the trial court. Finding no evidence in the record of a contract between the county and the Department of Correction to house convicted felons, or a resolution of the county legislative body that convicted felons be housed in the county jail, the court held that there was no basis to conclude that the defendant's sentence should not be served in the Department of Correction. *Id*.

In imposing a sentence, the court determines under what conditions a sentence will be served as provided by law. A defendant may be sentenced to the Department of Correction unless prohibited by T.C.A. § 40-35-104(b). T.C.A. § 40-35-212(a). The court retains full jurisdiction over the manner of the defendant's sentence service unless the defendant receives a sentence in the Department of Correction. T.C.A. § 40-35-212(c). Notwithstanding the provisions of T.C.A. § 40-35-212(c), the court retains full jurisdiction over a defendant sentenced to the Department of Correction during the time the defendant is being housed in a local jail or workhouse awaiting transfer to the department. Such jurisdiction continues until the time the defendant is actually transferred to the physical custody of the Department of Correction. T.C.A. § 40-35-212(d).

If the minimum statutory punishment for any offense is imprisonment in the penitentiary for one year, but in the opinion of the court the offense merits a lesser punishment, the defendant may be sentenced to the local jail or workhouse for any period less than one year, except as otherwise provided. T.C.A. §

40-35-211(2). *See also* T.C.A. § 40-20-103.

If a defendant is convicted of an offense designated as a felony but the court imposes a sentence of less than one year in the local jail or workhouse, the defendant is considered a felon but is sentenced as in the case of a misdemeanor and, therefore, is entitled to sentence credits under T.C.A. § 41-2-111. Upon such defendant becoming eligible for work release, furlough, trusty status or related rehabilitative programs as specified in T.C.A. § 40-35-302(d), the defendant may be placed in such programs by the sheriff or administrative authority having jurisdiction over the local jail or workhouse. T.C.A. § 40-35-211(3).

If confinement is directed, the court shall designate the place of confinement as a local jail or workhouse if required pursuant to T.C.A. § 40-35-104(b), or, if the sentence is eight years or less and combined with periodic or split confinement not to exceed one year, the court shall designate the place of confinement as a local jail or workhouse. If confinement in a local jail or workhouse is not mandated by T.C.A. §§ 40-35-104(b), 40-35-306 or 40-35-307, all convicted felons sentenced after November 1, 1989, to continuous confinement for a period of one year or more shall be sentenced to the Department of Correction. After November 1, 1989, if a court sentences or has sentenced a defendant to a local jail or workhouse when such court was not authorized to do so by this chapter, it shall be deemed that such sentence was a sentence to the department, and the commissioner of correction shall have the authority to take such a defendant into the custody of the department. T.C.A. § 40-35-314(a). "This code section clearly requires that any sentence of confinement over eight years is to be served in the Tennessee Department of Correction." *Carver v. State*, 2003 WL 21663688, *4 (Tenn. Crim. App. 2003)

Report by Sheriff to Department of Correction

Reference Number: CTAS-1348

Pursuant to T.C.A. § 40-23-113, whenever any person sentenced to the custody of the Department of Correction has been detained in the jail or workhouse pending arraignment, trial, sentencing or appeal, the sheriff must prepare and transmit with the defendant, at the time of commitment to the Department of Correction, a short report furnishing such information pertaining to the defendant's behavior while in local custody as may be requested by the department. Notwithstanding any other provision of the law to the contrary, no person sentenced to the custody of the Department of Correction shall be committed or conveyed to the department unaccompanied by the completed report required by T.C.A. § 40-23-113.
