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# Fire Safety

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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,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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# Fire Safety

Reference Number: CTAS-1389

If the jail is not fireproof and any person is confined in the jail, it is the duty of the sheriff to be constantly at the jail or to constantly have a jailer at the jail with all the keys necessary to liberate all the prisoners in the jail in case of fire. T.C.A. § 41-4-112. Facilities shall have a written and graphic evacuation plan posted in the housing area, as well as any other specified locations. The plan shall be approved by a contractor or local fire inspector trained in the application of fire safety codes and shall be reviewed annually. Rules of the Tennessee Corrections Institute, Rule 1400-1-.05(7). Facilities shall maintain a written policy and procedure to provide for fire drills every three months for all staff members on every shift and document dates of said drills. Rules of the Tennessee Corrections Institute, Rule 1400-1-.05(5).

Courts have held that adequate shelter must include adequate provisions for fire safety. *Grubbs v. Bradley*, 552 F.Supp. 1052, 1122-1123 (M.D. Tenn. 1982) *citing Leeds v. Watson*, 630 F.2d 674, 675-76 (9th Cir.1980); *Ruiz v. Estelle*, 503 F.Supp. 1265, 1383 (S.D. Tex. 1980), *aff'd in part, rev'd in part and remanded*, 679 F.2d 1115 (1982); *Gates v. Collier*, 349 F.Supp. 881, 888 (N.D. Miss. 1972), *aff'd*, 501 F.2d 1291 (5th Cir. 1974).

Inmates "have the right not to be subjected to the unreasonable threat of injury or death by fire and need not wait until actual casualties occur in order to obtain relief from such conditions." *Jones v. City and County of San Francisco*, 976 F.Supp. 896, 908 (N.D. Cal. 1997) (finding that county failed to reasonably respond to fire safety risks in the jail and holding that the risks constituted punishment in violation of pretrial detainees' 14th Amendment rights) *citing Hoptowit v. Spellman*, 753 F.2d 779, 784 (9th Cir. 1985). See also *Nicholson v. Choctaw County*, 498 F.Supp. 295, 308 (S.D. Ala. 1980) (County officials' failure to correct the fire safety violations as ordered by the state fire marshal violated inmates' Eighth and 14th Amendment rights.); *Dawson v. Kendrick*, 527 F.Supp. 1252, 1289-1290 (S.D. W.Va. 1981) ("Prisoners likewise have the right not to be subjected to the unreasonable threat of injury or death by fire. Prisoners need not wait until they are actually injured by an assault or a fire in order to obtain relief from such conditions.") (citations omitted).

Pursuant to T.C.A. § 68-102-130, the state fire marshal may at all hours enter the county jail for the purpose of making an inspection or investigation. The State Fire Marshal's Office will inspect a county jail upon the written complaint of any citizen or whenever the state fire marshal or his or her deputies or assistants deem it necessary. T.C.A. § 68-102-116. The officer shall order remedies to be made if the officer finds that the jail is especially liable to fire or is in a dangerous or defective condition and is situated so as to endanger life or property due to:

1. A lack of repairs;
2. A lack of sufficient fire escapes;
3. A lack of automatic or other fire alarm apparatus;
4. A lack of fire-extinguishing equipment;
5. Age or dilapidated condition; or
6. Any other cause.

If the officer finds any combustible or explosive matter or inflammable conditions dangerous to the safety of the jail, the officer shall order the same removed. Such orders must be immediately complied with by the county. T.C.A. § 68-102-117(a)(1). If compliance with such order is not expedient and does not permanently remedy the condition, after giving written notice, then the officer has the authority to issue a citation for the violation, requiring the person found to be responsible for the dangerous or defective conditions to appear in court at a specified date and time. T.C.A. § 68-102-117(a)(2). (NOTE: It is the duty of the county legislative body to keep the jail in order and repair. T.C.A. §§ 5-7-104 and 5-7-106.) If the person cited fails to appear in court on the date and time specified, the court shall issue a bench warrant for such person's arrest. T.C.A. § 68-102-117(a)(4).

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