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# Jail Fees

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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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# Jail Fees

Reference Number: CTAS-1426

The county legislative body of each county has the authority to pass a resolution fixing the amount of jailers' fees that may be applied to misdemeanor prisoners. The rate fixed shall apply to such prisoners confined in the county jail or county workhouse or workhouses, but not meeting the conditions required for a state subsidy under Title 41, Chapter 8.T.C.A. § 8-26-105(a). Sample Resolution to fix Jailer's Fees.

Sheriffs and jailers must make written statements of account, properly proven and sworn to, for the keeping of prisoners, specifying distinctly each item and the amount due for each item. T.C.A. § 41-4-129.

The fees of jailers is taxed separately from the general bills of costs of criminal cases. All state costs must be properly proved and sworn to before the clerk of the criminal or circuit court of the county and certified by the clerk for payment. T.C.A. § 41-4-131.

Jailer's fees for county prisoners shall be referred monthly to the county mayor for inspection, who shall audit the fees and cause the clerk to issue a warrant for the amount allowed. T.C.A. § 41-4-136.

## Booking Fee

T.C.A. § 40-7-122 provides that in addition to any other fees the sheriff is entitled to demand and receive in accordance with § 8-21-901, a county legislative body may vote to impose an additional fee of not more than ten dollars (\$10.00) for the booking and processing of each person subject to arrest or summons. The fee shall be collected at the same time and in the same manner as other fees are collected by a sheriff in accordance with title 8, chapter 21, part 9. The fee shall not be charged to any person determined by the court to be indigent.

## Arrest and Transportation of Prisoners, Bail Bond

1. For executing every *capias*, criminal warrant, summons or other leading process, making arrests in criminal cases and carrying to jail, prison or other place of incarceration and guarding defendant arrested by warrant involving taking custody of a defendant: \$40.
2. For citation in lieu of arrest or criminal warrant not involving physical custody of a defendant: \$25.
3. For every bail bond to be paid as cost at the time there is a disposition of the case: \$10.
4. If a sheriff is required to act as a guard to escort prisoners, the sheriff is entitled to a per mile fee equal to the mileage allowance granted federal employees. The fee shall be separate for each prisoner and computed on the distance actually traveled with the prisoner and shall be for no more than two guards. The fee shall apply only when the sheriff is required to transport a prisoner from county to county or from state to state. Similarly, the sheriff is entitled to the same mileage allowance when required to transport a prisoner to a hospital or other mental health facility in another county or state for a judicially ordered evaluation.
5. When two or more criminal warrants are executed at the same time against the same individual, only one arrest fee is allowed when the fee is chargeable to the county or the state.

T.C.A. § 8-21-901(a)(3). *See also* T.C.A. § 40-9-127.

## Payment for Transporting Prisoners – Limitations on Charges

T.C.A. § 40-25-111 provides for payment for transporting prisoners to the department of corrections.

(a) The sheriff or other officer, conveying an inmate to the penitentiary, shall make out an account in writing, stating the number of miles on the usual route from the place of conviction to the penitentiary, the number of guards necessarily employed to ensure the safe conveyance of the inmate, and the distance each of the guards may have traveled, and make oath to the truth of the account before the warden of the penitentiary, or any judge, who shall certify the fact.

(b) Upon presentation of the account thus sworn to and certified, the director of accounts shall issue a warrant for the amount, as in other cases, if satisfied of the correctness of the account.

(c) It is the duty of the sheriff to carry to the penitentiary, at the same time, all inmates in the sheriff's custody, at that time sentenced to the penitentiary, and the sheriff shall not be entitled to charge for more than one (1) trip.

## Contracting to House State Prisoners

No county is required to house convicted felons sentenced to more than one year of continuous confinement unless the county, through the authority of its county legislative body, has chosen to contract with the Department of Correction for the purpose of housing certain felons. The department promulgates rules for requirements and procedures for contracting. T.C.A. § 41-8-106(a).

Counties may contract, in writing, with the state or with other counties for responsibility of correctional populations. T.C.A. § 41-8-106(b).

#### Reimbursement for Keeping State Prisoners

Pursuant to T.C.A. § 8-26-106, upon adoption by the county legislative body of a resolution fixing jailers' fees, it is made the duty of the county clerk to promptly transmit to the judicial cost accountant a certified copy of the resolution. The judicial cost accountant shall allow jailers' fees for that particular county for state prisoners at the amount fixed by the resolution on the same terms as the county according to the provisions of T.C.A. § 8-26-105.

However, pursuant to T.C.A. § 8-26-105(b), in lieu of the reimbursement for jailers' fees allowed in T.C.A. § 8-26-106, the state now provides a subsidy pursuant to Title 41, Chapter 8. Pursuant to T.C.A. § 8-26-105(c), references in other sections of the code to jailers' fees for state prisoners specified in T.C.A. § 8-26-105 are deemed to be references to the subsidies specified in T.C.A. § 41-8-106.

As defined in T.C.A. § 41-8-103(12), the "subsidy" referred to in T.C.A. §§ 8-26-105(b) and 41-8-106 means that amount of money paid by the state to a county in accordance with T.C.A. § 41-8-106.

Subsidies paid to counties pursuant to Title 41, Chapter 8, is the only compensation from the state to which counties are entitled for housing state prisoners and are in lieu of the fees allowed in T.C.A. § 8-26-106 or any other section of the code. T.C.A. § 41-8-106(e).

Counties are reimbursed for housing convicted felons pursuant to the general appropriations act and according to rules and regulations for determining reasonable allowable costs as promulgated by the Department of Correction, in consultation with the comptroller of the treasury. The department is authorized to include capital costs within the meaning of reasonable allowable costs. Such capital costs may include, but are not limited to, debt service. T.C.A. § 41-8-106(c)(1).

Pursuant to T.C.A. § 41-8-106(g)(1), the Department of Correction is required to take into its custody all convicted felons from any county that had not contracted with the state as authorized by T.C.A. § 41-8-106(b). The department is not required to take actual physical custody of any such felons until 14 days after the department has received all certified sentencing documents from the clerk of the sentencing court.

The commissioner of correction is authorized to compensate any county that has not contracted with the state as authorized by T.C.A. § 41-8-106(b) for such county's reasonable, allowable cost of housing such felons. The rate of this compensation to the noncontracting counties is determined by and is subject to the level of funding authorized in the appropriations bill. However, the commissioner may not compensate any county that fails or refuses to promptly transfer actual physical custody of an inmate to the Department of Correction after being requested by the department in writing to do so for each day or portion of a day that such county fails to transfer the inmate. The written notice shall include the date it intends to take custody of the inmate for transfer to the department. The notice shall be given as soon as practicable before such transfer date. T.C.A. § 41-8-106(g)(2).

#### Fees lost by escape of prisoner -- Exception

T.C.A. § 40-25-110 states that:

**(a)** No sheriff, jailer or other officer charged with the custody of the prisoner is entitled to any allowance for keeping or removing the prisoner, if the prisoner escapes from the custody of the sheriff or jailer, or from the officer during removal.

**(b) (1)** Where prisoners make their escape from jail by means of force, stratagem or other fraudulent device, and reasonable care and diligence were used by the jailer to prevent the escape, or to secure the prisoner or prisoners in jail, the jailer shall be entitled to fees as jailer; provided, that it shall be clearly made to appear to the satisfaction of the judge of the circuit or criminal court in the county where the escape was made or the cause pending, that the escape was effected in the manner and under the circumstances aforementioned, and that the jailer had used the proper efforts on the jailer's part to recover the prisoner or prisoners.

**(2)** In all cases falling within this subsection (b), it is the duty of the judge to certify the claim for payment as in other bills of cost, and the sheriff or other officers having custody of the prisoner or prisoners shall have all the benefits of this subsection (b).

See Jailer's Fees under Sheriff's Fees of the Law Enforcement topic for more information.

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