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Tennessee Minimum Standards for Local Correctional Facilities

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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Tennessee Minimum Standards for Local Correctional Facilities

Reference Number: CTAS-1430

The Tennessee Corrections Institute has the power and duty to:

1. Establish minimum standards for local jails, lock-ups, and workhouses, including, but not limited to, standards for physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates, and standards for the safekeeping, health and welfare of inmates. The standards established by the Tennessee Corrections Institute must approximate, insofar as possible, those standards established by the Inspector of Jails, Federal Bureau of Prisons, and by the American Correctional Association's Manual of Correctional Standards, or such other similar publications as the Institute may deem necessary;
2. Establish guidelines for the security of local jails, lock-ups, and workhouses for the purpose of protecting the public from criminals and suspected criminals by making such facilities more secure and thereby reducing the chances that a member of the public or a facility employee will be killed or injured during an escape attempt or while an inmate is fleeing from law enforcement officials following an escape;
3. Inspect all local jails, lock-ups, workhouses and detention facilities at least once a year and publish the results of such inspections. Inspections must be based on the established standards mentioned above; and
4. Have full authority to establish and enforce procedures to ensure compliance with the standards set out above so as to ensure the welfare of all persons committed to such institutions. Failure on the part of the county to maintain the standards established under T.C.A. § 41-4-140 must be reported by the Board of Control of the Institute to the commissioner of correction, sheriff, judge, or mayor, as appropriate, in the county in which the jail or penal institution is located. This report must specify the deficiencies and departures from the standards and order their correction.

T.C.A. § 41-4-140(a).

Any changes to the TCI minimum standards for local correctional facilities would be new "rules" under the Uniform Administrative Procedures Act (UAPA) and thus must comply with the rule-making provisions of the UAPA. A rule, by definition, includes the amendment or repeal of a prior rule. Tenn. Code Ann § 4-5-102(12). The TCI's establishment of minimum standards for local correctional facilities implements or prescribes law, and thus triggers the UAPA due process requirements of notice and hearing to those whose relationships with the government will be impacted by the adoption of such standards. Such persons or entities would include, but not be limited to, local officials responsible for the building and maintenance of these facilities, contractors charged with meeting these standards and the general public. The TCI's establishment of minimum jail standards does not fit within any of the exceptions of Tennessee Code Annotated § 4-5-102(12). Establishing jail standards does "impact private rights, privileges or procedures available to the public", Tenn. Code Ann. § 4-5-102(12)(A), and is more than a mere statement "concerning inmates of a correctional or detention facility", Tenn. Code Ann § 4-5-102(12)(G). See, e.g., *Abdur' Rahman v. Bredesen*, 181 S.W. 3d 292, 311-12 (Tenn. 2005); *Heritage Early Childhood Development Center, Inc. v. Tennessee Department of Human Services*, No. M2008-02134-COA-R3-CV, 2009 WL 3029595, at 5-7 (Tenn. Ct. App. 2009). Tenn. Attny. Gen. 11-63 (August 26, 2011)

If, after inspection of a local correctional facility as provided in T.C.A. § 41-4-140(a)(3), the facility is determined not to be in compliance with the minimum standards, the Board of Control or any of its authorized staff may grant the facility an extension not to exceed 60 days for the purpose of making such improvements as are necessary to bring the facility into compliance with the minimum standards. During the period of the extension, the facility shall maintain the same certification status as it had prior to the most recent inspection. No additional extensions may be granted, and the certification status given a facility upon reinspection shall be the facility's status until the next annual inspection. T.C.A. § 41-4-140(b)(1).

No local currently certified facility shall be decertified if that local government has submitted a plan within 60 days of the initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies in that facility and cause the facility to remain certified. T.C.A. § 41-4-140(d).

No local correctional facility shall be denied a certificate of compliance with the minimum standards for the sole purpose of calculating the level of reimbursement upon the certified or not certified determination, if the sole cause is based on overcrowding because of prisoners sentenced to the Department of Correction whose commitments are delayed pursuant to Title 41, Chapter 1, Part 5, or pursuant to a federal court

order when such prisoners are being held by a county pending such commitment. T.C.A. § 41-4-140(b)(2).

The total number of prisoners awaiting transfer to the Department of Correction penal system shall be discounted from any computations used to determine compliance with standards used by the Tennessee Corrections Institute if the governor has invoked the power of delayed intake pursuant to § 41-1-504(a)(2) or if a federal or state court has delayed intake into the department penal system, or both. T.C.A. § 41-4-140(e).

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