



November 26, 2024

Constable

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Reference Number: CTAS-454

Constables are optional officers. Constables are independently elected county officials. See AG OP 78-153 (March 31, 1978). Their jurisdiction is county wide. In counties where they exist, they all may serve civil process. In some counties, designated by narrow population class in the general law at T.C.A. § 8-10-108(b), the constable has law enforcement powers and, therefore, may enforce the criminal laws of this state. T.C.A. § 8-10-109.

Constables are fee officials. They do not receive a salary. They are not supervised by anybody. See AG OP 02-012 (January 18, 2002). The county would probably be liable for torts committed by a constable that fall within the Governmental Tort Liability Act, T.C.A. §§ 29-20-101, et seq., and for civil rights violations under 42 U.S.C. § 1983. See AG OP 00-050 (March 20, 2000); AG OP 91-70 (August 1, 1991).

In most counties the county legislative body may, by adopting a resolution by two-thirds majority vote at two consecutive meetings, abolish the office of constable for that county or set the term of office for the constable at either two or four years. Any change would not be effective until the end of the current term being served by the constable. T.C.A. § 8-10-101.

In most counties, the county legislative body may also, by adopting a resolution by a two-thirds vote at two consecutive meetings of the county legislative body, remove the law enforcement powers exercised by the constables of the county. Such action by the county legislative body to remove the law enforcement powers of constables will apply to constables elected to office following the expiration of the term of office of constables in office at the time the action is taken by the county legislative body. T.C.A. § 8-10-109. Note: Some exceptions apply.

In addition to these optional procedures, several counties, by population class exceptions, are exempt from portions of the constable law or have abolished the office of constable entirely. The specific statute should be consulted for provisions applicable to each individual county. T.C.A. § 8-10-101 *et seq.*

Constables are elected from districts established by the legislative body subject to the following limitations: the number of constables elected cannot exceed one-half the number of county commissioners and constable districts must be reasonably compact and contiguous and must not overlap. T.C.A. § 8-10-101. Constables must have the following qualifications:

1. Be at least twenty-one (21) years of age,
2. Be a qualified voter of the district and a resident of the county for one (1) year prior to the date of the qualifying deadline for running as a candidate for constable,
3. Must be able to read and write,
4. Must possess at least a high school diploma or general educational development certificate,
5. Not have been convicted in any federal or state court of a felony, and
6. Not have been separated or discharged from the Armed Forces of the United States with other than an honorable discharge.

There are a few exceptions to the aforementioned qualifications. T.C.A. § 8-10-102.

Any person seeking the office of constable must file with the county election commission, along with the nominating petition, an affidavit signed by the candidate affirming that the candidate meets the requirements in T.C.A. § 8-10-101. In the event that person seeks election to the office of constable by the county legislative body to fill a vacancy in office, the same affidavit shall be filed with the county clerk prior to the election. T.C.A. § 8-10-102.

In 2023, the legislature amended T.C.A. § 8-10-102. Effective July 1, 2023, a person seeking the office of constable must file with the county election commission, along with the nominating petition, a letter from a psychologist licensed in this state who has conducted a cognitive and psychological test on the candidate stating that the candidate is mentally and cognitively fit to perform the duties of a constable. In the event that the candidate seeks election to the office of constable by the county legislative body to fill a vacancy in office, the same letter must be filed with the county clerk prior to the election. Candidates for the office of constable are responsible for covering the costs of cognitive and psychological testing.

Before entering into the duties of the office, the constable must take an oath to support the constitutions of this state and of the United States, and an oath of office, pursuant to T.C.A. § 8-10-108. Each constable must execute an official bond in an amount of \$4,000 or such greater amount as the county legislative body by resolution may determine. The bond must be prepared, executed, filed, and recorded in accordance with Title 8, Chapter 19. The bond as required for a constable shall be a surety bond executed

by a surety company authorized to do business in Tennessee as surety. T.C.A. § 8-10-106.

There are permissive specifications regarding uniforms and car markings. T.C.A. §§ 8-10-119, 8-10-120.

Constables' duties may be limited to serving civil process or may include peacekeeping duties; the oath of office differs according to the nature of the duties. T.C.A. § 8-10-108. The duties of the constable are determined according to the population classification of the particular county pursuant to T.C.A. §§ 8-10-108 and 8-10-109, unless the county legislative body has acted to remove law enforcement powers. The legislative body may fill any vacancy by temporary appointment until it is filled by an election. T.C.A. § 5-1-104.

Constables must complete forty hours of in-service course time for each twelve-month period during which the constable holds office, beginning on the date the constable is sworn into office. A constable with twenty years of cumulative service as a constable before May 3, 2018, is exempt. T.C.A. § 8-10-202.

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