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Special Deputies Appointed Under T.C.A. § 8-8-212

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

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Special Deputies Appointed Under T.C.A. § 8-8-212

Reference Number: CTAS-1235

On urgent occasions, or when required for particular purposes, the sheriff may appoint as many special deputies as the sheriff deems proper. T.C.A. § 8-8-212(a). See *General Truck Sales, Inc. v. Simmons*, 343 S.W.2d 884 (Tenn. 1961) ("This clearly gives the Sheriff the right, when in his judgment it is necessary, to appoint a Special Deputy for any particular occasion"). See also *Reves v. State*, 79 Tenn. 124, (1883) ("The act of 1870 shows a change of policy by the State, for the sheriff is thereby authorized to appoint as many regular deputies as he pleases, and special deputies on urgent occasions, of which he alone is to judge, 'or when required for particular purposes.'"); *State v. Kizer*, 36 Tenn. 563 (1857) ("...it is not necessary, to make a valid deputation, that it should appear in the endorsement of the sheriff that an 'urgent occasion' existed, but that will be presumed.").

Special deputy means any person who is assigned specific police functions as to the prevention and detection of crime and general laws of this state on a volunteer basis, whether working alone or with other deputies. A special deputy working on a volunteer basis does not receive pay or benefits, except for honoraria, and may be used for an unlimited number of hours. T.C.A. § 38-8-101(3); Rules of the Tennessee Peace Officer Standards and Training Commission, Rule 1110-8-.01.

Minimum Qualifications

After January 1, 1989, any person employed or used as a special deputy shall have the same minimum qualifications as a full-time deputy sheriff. T.C.A. § 38-8-106; Rules of the Tennessee Peace Officer Standards and Training Commission, Rule 1110-8-.02.

Special deputies who were employed prior to January 1, 1989, and have had continuous service are exempt from the pre-employment requirements as long as they remain on active service with the sheriff's office that originally employed them. Any special deputy who has a break in service of any length whatsoever is required to meet the pre-employment and training standards. Rules of the Tennessee Peace Officer Standards and Training Commission, Rule 1110-8-.02.

The minimum standards set forth in T.C.A. § 38-8-106 and in Rule 1110-8-.02 are mandatory and are binding upon the county. Any person who appoints an applicant who, to the knowledge of the appointor, fails to meet the minimum standards as set forth in T.C.A. § 38-8-106 and in Rule 1110-8-.02, and any person who signs the warrant or check for payment of the salary of a person who, to the knowledge of the signer, fails to meet the qualifications as a special deputy as provided in T.C.A. § 38-8-106 and in Rule 1110-8-.02, commits a Class A misdemeanor and upon conviction shall be subject to a fine not exceeding \$1,000. T.C.A. § 38-8-105(a) and (b). Nothing in Title 38, Chapter 8 precludes an employing agency from establishing qualifications and standards for hiring and training special deputies that exceed those set by the POST Commission. T.C.A. § 38-8-109.

Training Requirements

After January 1, 1989, any person newly employed or used as a special deputy must receive 80 hours of training in whatever duties they are required by the sheriff's office to perform. This training must be accomplished during the first calendar year of employment. Rules of the Tennessee Peace Officer Standards and Training Commission, Rule 1110-8-.03.

Oath

Special deputies must take the same oaths as the sheriff, which are certified, filed, and endorsed in the same manner as the sheriff's. T.C.A. § 8-18-112. Oaths are covered under the General Information tab of the County Offices topic.

Bond

No person may serve as a special deputy unless that person proves to the appointing sheriff financial responsibility, as evidenced by a corporate surety bond in no less amount than \$50,000 or by a liability insurance policy of the employer in no less amount than \$50,000. T.C.A. § 8-8-303(c). "The purpose of this provision is to protect third parties who may be injured by the special deputy." *State v. Epps*, 1989 WL 28906 (Tenn. Crim. App. 1989). Anyone incurring any wrong, injury, loss, damage, or expense resulting from any act or failure to act on the part of any special deputy appointed by the sheriff but not employed by the sheriff or the county may not bring suit against the sheriff or the county. The sheriff and county are immune from such suits. See *Hensley v. Fowler*, 920 S.W.2d 649 (Tenn. Ct. App. 1995). The plaintiff must proceed against the special deputy or the employer or employers of the special deputy, whether the special deputy is acting within the scope of employment or not. T.C.A. § 8-8-303(b). See

Hensley v. Harbin, 782 S.W.2d 480 (Tenn. Ct. App. 1989) (wrongful death action brought against special deputy).

In-Service Training Requirements.

After the initial training has been completed, all special deputies are required to attend 40 hours of in-service training each calendar year. This training may be spread over a 12-month period but must be completed during the calendar year. Rules of the Tennessee Peace Officer Standards and Training Commission, Rule 1110-8-.04.

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