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# Limitations of Liability for Employers

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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,

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## Limitations of Liability for Employers

Reference Number: CTAS-2477

Under T.C.A. § 40-29-108, an action may not be brought against an employer or contracting party for negligent hiring, training, retention, or supervision of an employee or independent contractor based solely on the fact that the employee or independent contractor has been previously convicted of a criminal offense. In an action against an employer or contracting party for negligent hiring, training, retention, or supervision of an employee or independent contractor, evidence that the employee or independent contractor has been previously convicted of a criminal offense is inadmissible.

However, the above provisions of T.C.A. § 40-29-108 will not apply if the employer or contracting party knew or reasonably should have known of the employee's or independent contractor's prior conviction, and:

1. The employee or contractor was previously convicted of an offense that was committed while performing duties substantially like those reasonably expected to be completed in the employment or under the contract, or under conditions substantially similar to those reasonably expected to be encountered in the employment or under the contract; or
2. The employer or contractor was convicted of a violent offense, defined in § 40-35-120(b), or a violent sexual offense, defined in § 40-39-202.

Additionally, sections (a) and (b) of T.C.A. § 40-29-108 will not apply if:

1. The cause of action concerns the misuse by an employee or independent contractor of the funds or property of a person other than the employer or contracting party;
2. On the date the employee or independent contractor was hired, the employee or independent contractor had been previously convicted of an offense with an element which includes fraud or the misuse of funds or property; and
3. The employer or contracting party should have reasonably foreseen that the position for which the employee or independent contractor was being hired would involve managing funds or property of a person other than the employer or contracting party..

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