

ETHICS LAWS AFFECTING LOCAL GOVERNMENT OFFICIALS

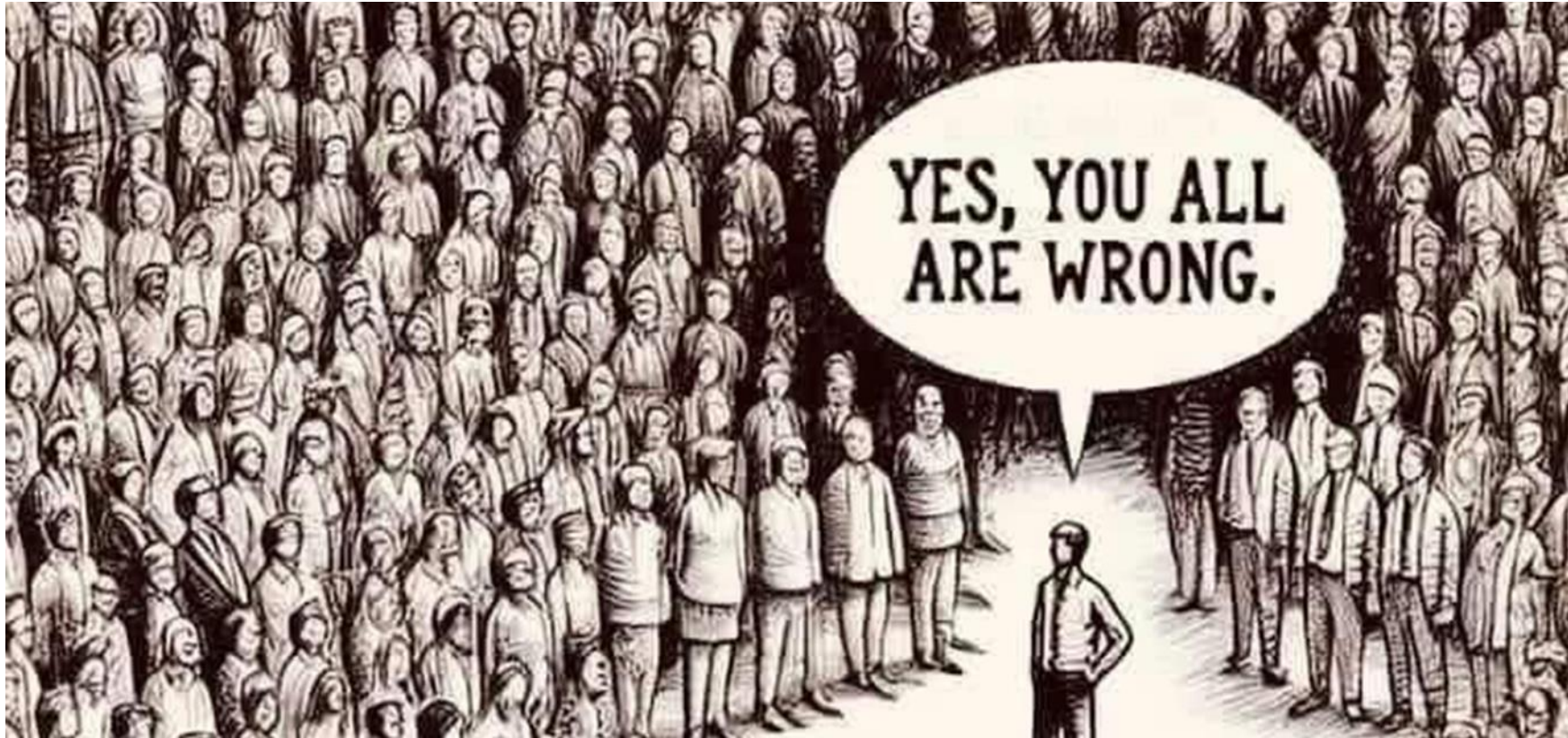


ETHICS & CONFLICTS OF INTEREST 2026

Presented by:
Stephen Austin, Legal Consultant
University of Tennessee
County Technical Assistance Service

All public officials are presumed to know clearly established law, whether or not they have in fact ever cracked a law book.

***Stedam v. Cumberland County, Tennessee,*
2019 WL 2501560, (M.D. Tenn. 2019).**



CRIMES IN OFFICE



Title 40 - Criminal Procedure

Chapter - 15 Pretrial Diversion

Chapter 20 - Judgment and Sentence

CLASS A MISDEMEANOR

No Pretrial Diversion

T.C.A. § 40-15-105

Any misdemeanor offense committed by any elected or appointed person or employee in the executive, legislative, or judicial branch of the state or any political subdivision of the state, which offense was committed in the person's official capacity or involved the duties of the person's office, is ineligible for pretrial diversion.

Disqualification from Public Office

T.C.A. § 40-20-114

Prohibits state and local elected officials from seeking elected state or local office after conviction of a state or federal felony related to public service, even if citizenship status is later restored.

Furthermore, the conviction is grounds for removal from office and the person is forever prohibited from qualifying for, seeking or holding any public office in this state.

Disqualification from Public Office

T.C.A. § 40-20-114

Public Chapter 281 (2019)

A court shall not accept any plea agreement that allows an elected public official who is charged with an infamous crime involving an offense committed in the person's official capacity or involving the duties of the person's office, to qualify for, seek, or hold public office in this state or any political subdivision of this state at some point in the future.

Disqualification from Public Office

T.C.A. § 40-20-114

Public Chapter 281 (2019)

If an elected public official accepts a plea agreement for an offense committed in the person's official capacity or involving the duties of the person's office, the person is prohibited from qualifying for, seeking, or holding public office in this state or any political subdivision of this state at some point in the future after the plea agreement has been agreed to by all parties.

Eligibility to Hold Office

T.C.A. § 8-18-101

Public Chapter 281 (2019)

Amended T.C.A. § 8-18-101 to forever disqualify from holding office those who have been convicted of an infamous crime if the offense was committed in the person's official capacity or involved the duties of the person's office.

Judgment of Infamy

T.C.A. § 40-20-112

Upon conviction for any felony, it shall be the judgment of the court that the defendant be infamous and be immediately disqualified from exercising the right of suffrage.

Op.Tenn.Atty.Gen. 97–169 (December 22, 1997)(From May 18, 1981, all felonies are “infamous crimes.”).

FORFEITURE OF RETIREMENT BENEFITS

Under the 2006 Ethics Act, each time a person is elected to a public office, that person, as a condition of such election, is deemed to consent and agree to the forfeiture of that person's retirement benefits from the TCRS, any superseded retirement system or any other public pension system if that person is convicted in any state or federal court of a felony arising out of that person's official capacity, constituting malfeasance in office. This law applies regardless of the date the person became a member of the public pension system.

T.C.A. § 8-35-124(a)(3).



Convicted Hamilton Sheriff Received Improper Retirement Benefits

September 3, 2010

Hamilton County government is taking responsibility for an oversight that resulted in illegal pension payments to the county's imprisoned former sheriff.

In the nearly two years since former sheriff Billy Long was sentenced for multiple crimes, including selling drugs and money laundering, he has received more than \$50,000 in retirement benefits, but now he will have to repay nearly \$4,000 he received as an overpayment, according to the state Treasury Department. And he will not be entitled to any future benefits.

The retirement payments stopped Tuesday after the Times Free Press asked the Tennessee Consolidated Retirement System about payments made to former elected officials convicted of felonies.

Convicted Hamilton Sheriff Received Improper Retirement Benefits

The state Treasury Department, which administers the program, discovered the error when looking up the information. The department reported that the county did not notify the TCRS of Long's federal indictment and conviction, and has continued to pay him long since he was sentenced in November 2008. As of Aug. 31, Long had received \$50,456.

Steve Curry, assistant to the state Treasurer for programs, said his office is now asking the state attorney general to see whether the state should try to recoup the money.

"The financial responsibility for the retirement program rests with Hamilton County," Curry said. "They pay an employer contribution that helps pay the retirement benefits of their employees."

County Administrator of Finance Louis Wright said the Treasury Department has contacted him and he said it was the county's responsibility to notify the state of Long's indictment and conviction.

"That statute (disqualifying him) was adopted in 2006 and clearly it has flown under our radar," Wright said.

COUNTY ETHICS POLICY

Ethical Standards for Officials & Employees

**DISCLOSURE AND/OR LIMITS ON GIFTS
AND
DISCLOSURE OF CONFLICT OF INTERESTS**

COUNTY ETHICS POLICY

UNDER THE ETHICS REFORM ACT OF 2006

The “Comprehensive Governmental Ethics Reform Act of 2006” is codified in T.C.A. § 8-17-101 *et seq.*

Among other requirements, the Ethics Reform Act requires local governments to adopt ethical standards related to the acceptance of gifts and disclosure of conflicts of interest, and directed CTAS to develop a model policy.

Provisions of state law, to the extent they are more restrictive, shall control.

COUNTY ETHICS POLICY

Important Points in the Legislation

1. Local ethics policies were required to be adopted by the county legislative body in each county by June 30, 2007.
2. The policies are required to cover two things:
 - (1) disclosure and/or limits on gifts and
 - (2) disclosure of conflict of interests.
3. The policies cannot include personnel, employment, or operational regulations of local government offices.

COUNTY ETHICS POLICY

T.C.A. 8-17-102(a)(3)

"Ethical standards" includes:

Rules and regulations regarding limits on, and/or reasonable and systematic disclosure of, gifts or other things of value received by officials and employees that impact or appear to impact their discretion

Rules and regulations regarding reasonable and systematic disclosure by officials and employees of their personal interests that impact or appear to impact their discretion.

CTAS MODEL POLICY

Section 4. Acceptance of gifts and other things of value. An official or employee, or an official's or employee's spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county:

- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the official or employee in executing county business.

CTAS MODEL POLICY

Section 4

An official or employee who accepts any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county shall disclose such acceptance on the attached disclosure form and file the disclosure form with the county clerk.

CTAS MODEL POLICY

Section 4

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference sponsored by an established or recognized statewide association of county government officials or by an umbrella or affiliate organization of such statewide association of county government officials

NOTE: While such behavior may not violate your county's ethics policy, it may still violate state law.

GIFT DISCLOSURE STATEMENT

COUNTY CODE OF ETHICS

GIFT DISCLOSURE STATEMENT

Instructions: This form is for reporting the acceptance of any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county required to be disclosed under Section 4 of the Code of Ethics of this county.

1. Date of disclosure: _____

2. Name of official or employee: _____

3. Office and position: _____

4. Description of gift, money, gratuity, or other consideration or favor (describe below in detail):

Signature of official or employee

Witness Signature



COUNTY ETHICS POLICY

Important Points in the Legislation

T.C.A. 8-17-102(a)(3)

The term "ethical standards" does not include personnel or employment policies or policies or procedures related to operational aspects of governmental entities.

COUNTY ETHICS POLICY

Important Points in the Legislation

4. The policies apply broadly to all officials and employees in all offices, agencies, and departments of the county and to the members, officers, and employees of all boards, commissions, authorities, corporations, or other instrumentalities of a county.

UTILITY DISTRICT ETHICS POLICY

Important Points in the Legislation

T.C.A. 8-17-102(c) provides that utility districts are considered separate governmental entities to be governed by ethical standards established by the board of commissioners of the utility district in conformity with 8-17-105(b). Water, wastewater and gas authorities created by a private act or under the general law are considered separate governmental entities and shall be governed by ethical standards established by the governing board of the water, wastewater or gas authority in conformity with 8-17-105(b).

SCHOOL ETHICS POLICY

Important Points in the Legislation

T.C.A. 8-17-102(d) provides that county, municipal and special school districts shall be considered separate governmental entities and shall be governed by ethical standards established by the board of education of the school district. T.C.A. 8-17-105(a) provides that the Tennessee School Boards Association (TSBA) shall disseminate models of ethical standards for officials and employees of school districts and that such models shall be filed with the commission. Provides that school districts that adopt the ethical standards promulgated by TSBA are not required to file such policy with the commission but shall notify the commission in writing that the policy promulgated by TSBA was adopted and the date such action was taken.

E911 ETHICS POLICY

Important Points in the Legislation

The state ECB has issued the following policy to local E-911 boards:

Boards of directors of emergency communications districts shall adopt ethics policies consistent with the Comprehensive Ethics Reform Act, Tenn. Code Ann. § 8-17-101, et seq. Adopted 9-10-04; amended 8-30-07.

Employees hired by the Emergency Communications District Board are not officials or public employees of the county.

The county's ethics policy is not applicable to the emergency communications district.

COUNTY ETHICS POLICY

Important Points in the Legislation

5. CTAS was required to draft and distribute a model policy to counties to provide guidance and direction. The county may choose to adopt the model or draft standards of its own. **NOTE: The Model Policy was updated in 2022.**

6. The policies are filed with the State Ethics Commission. If the county adopts the CTAS model policy, then, instead of filing the policy, the county simply notifies the State Ethics Commission in writing that the county adopted the CTAS model policy. T.C.A. 8-17-105(a).

COUNTY ETHICS POLICY

Important Points in the Legislation

7. Enforcement remains as provided under current law.

8. A failure or refusal to adopt standards by a local governing body by the deadline subjects its members to ouster.

COUNTY ETHICS POLICY

To the extent that an issue covered by an ethical standard is addressed by a law of general application, public law of local application, local option law, or private act, any ethical standard adopted by a governing body shall not be less restrictive than such laws.

T.C.A. § 8-17-103(a).

COUNTY ETHICS POLICY

Public Chapter 37 (2023)

By no later than January 1, 2024, each entity covered by this chapter shall notify the ethics commission, either in writing or electronically by email, of the primary person responsible for administering and enforcing the entity's ethical standards. The entity also shall provide the commission with the person's contact information, including the person's business address, phone number, and email address. The entity shall notify the commission of any change in such responsibility within thirty (30) calendar days of such change and shall provide the name and contact information for an interim official serving in this capacity until such time as a permanent successor can be identified.

T.C.A. § 8-17-104(b).



COUNTY ETHICS POLICY

Public Chapter 37 (2023)

By no later than January 31, 2024, and on each January 31 thereafter, the commission shall notify the speaker of the house of representatives and the speaker of the senate, as well as the comptroller of the treasury, of each entity that is not in compliance with this part.

T.C.A. § 8-17-104(c).

COUNTY ETHICS POLICY

Public Chapter 37 (2023)

Legislative Record

The state legislature wants local governments to provide a contact person that the state ethics commission can refer people to for filing an ethics complaint.

The comment was made that in many cases, but not all, it is the county attorney that serves in this role.

It can also be the county mayor or chair of the ethics committee if there is an ethics committee.

COUNTY ETHICS POLICY

Violations - Enforced

Violations of ethical standards by officials or employees of entities covered by this chapter shall be enforced in accordance with provisions of existing law.

T.C.A. § 8-17-106(b).

Don't Eat That Chicken



If you eat the chicken you gotta disclose the chicken

COUNTY ETHICS COMMITTEE

**Your County May or May Not
Have an Ethics Committee**

More Laws



Official Misconduct

T.C.A. § 39-16-402

Prohibits unauthorized exercise of official power, acting in an official capacity exceeding the servant's power, refusal to perform a duty imposed by law, violating a law relating to the servant's office or employment, and **receiving a benefit not provided by law.**

Official Misconduct

T.C.A. § 39-16-402

“Tennessee’s official misconduct statute only applies to public officials who have an affirmative duty to act and refuse to do so or who misuse their official authority for private gain.”

Op. Tenn. Atty. Gen. 09-72 (May 6, 2009).

Official Misconduct

T.C.A. § 39-16-402

The acceptance of a gift by a county official or employee from a company that does business with the county may, depending upon the circumstances, constitute the criminal offense of official misconduct.

Op. Tenn. Atty. Gen. 94-073 (June 16, 1994).

Misuse of County Time and Property

A county official has a duty not to neglect the duties of the office. *State ex rel. Thompson v. Reichman*, 188 S.W. 225 (Tenn. 1916) (sheriff removed from office for neglect of office). Therefore, while outside activities may be permissible, they can cause problems if taken to extremes.

Misuse of County Time and Property

OUTSIDE EMPLOYMENT

The office of sheriff is by custom and state statute a full-time job.

The sheriff cannot work an outside job without risking losing his office.

If he is engaged in other employment, it could be argued that he is neglecting the duties of his office.

Op. Tenn. Atty. Gen. 02-012 (January 18, 2002)

Misuse of County Time and Property

The prohibition against the use of public property for private purposes, which would be **a form of official misconduct.**

Op. Tenn. Atty. Gen. 81-587 (November 3, 1981)

Op. Tenn. Atty. Gen. 82-391 (August 2, 1982)

Misuse of County Time and Property

It is improper for a county official to use publicly owned equipment for private gain.

Op. Tenn. Atty. Gen. No. U93-48 (April 6, 1993)

Official Oppression

T.C.A. § 39-16-403

Prohibits abuse of power by a public servant.

Court Sales

T.C.A. § 39-16-405

Prohibits judges, clerks of court, court officers, and employees of court, from bidding on or purchasing any property sold through the court for which such person discharges official duties.

Court Sales

T.C.A. § 39-16-405

A judge, sheriff, court clerk, court officer, or employee of any court commits an offense who bids on or purchases, directly or indirectly, for personal reasons or for any other person, any kind of property sold through the court for which the judge, sheriff, court clerk, court officer, or employee discharges official duties.

Court Sales

T.C.A. § 39-16-405

A bid or purchase in violation of this provision is voidable at the option of the person aggrieved.

This offense is a Class C misdemeanor, with no incarceration.

Op. Tenn. Atty. Gen. 99-105 (May 10, 1999)

Court Sales

T.C.A. §§ 8-8-206 & 8-10-116

No sheriff, deputy sheriff, or constable may purchase, either directly or indirectly, any property sold through their own judicial sale no matter which court is involved.

Op. Tenn. Atty. Gen. 99-105 (May 10, 1999).

Op. Tenn. Atty. Gen. 87-125 (July 23, 1987).

Bail Bondsmen

T.C.A. § 40-11-128

The following persons or classes shall not be bail bondsmen or agents of bail bondsmen or surety companies and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, attorneys, police officers, convicted felons, committing magistrates, municipal or magistrate court judges, clerks or deputy clerks, sheriffs, deputy sheriffs and constables, and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners.

Bail Bondsmen

T.C.A. § 40-11-128

Tenn. Code Ann. § 40-11-128 prohibits deputy sheriffs from serving as bail bondsmen in any district or county in Tennessee. The statute does not limit the prohibition of deputy sheriffs from being bail bondsmen to the counties where the deputy sheriffs are located or commissioned.

Op. Tenn. Atty. Gen. 06-092 (May 16, 2006).

Bail Bondsmen

T.C.A. § 40-11-128

Tenn. Code Ann. § 40-11-128 prohibits the spouse of a deputy sheriff from serving as a bail bondsperson if the spouses commingle funds.

Op. Tenn. Atty. Gen. 14-80 (September 4, 2014).

Bail Bondsmen

T.C.A. § 40-11-313

(a) It is unlawful for any person while serving as a constitutionally elected peace officer, or as such officer's deputy, or any duly elected or appointed county official to act as a professional bondsman, directly or indirectly.

(b) This section shall not apply to any duly elected member of the county legislative body.

Inmate Labor for Private Purposes Prohibited

T.C.A. § 41-2-148

(a) No sheriff, jailer or other person responsible for the care and custody of inmates housed in a county or municipal jail or workhouse may employ, require or otherwise use any inmate housed in the jail or workhouse to perform labor that will or may result directly or indirectly in the sheriff's, jailer's or other person's personal gain, profit or benefit or in gain, profit or benefit to a business partially or wholly owned by the sheriff, jailer or other person. This subsection (a) shall apply regardless of whether the inmate is or is not compensated for the labor.

Inmate Labor for Private Purposes Prohibited

T.C.A. § 41-2-148

(b)(1) No sheriff, jailer or other person responsible for the care and custody of inmates housed in a county or municipal jail or workhouse may permit any inmate housed in the jail or workhouse to perform any labor for the gain, profit or benefit of a private citizen or for-profit corporation, partnership or other business, unless the labor is part of a court-approved work release program or unless the work release program operates under a commission established pursuant to § 41-2-134.

Tennessee Sheriff Faces 22 Charges In 2 Counties, Accused Of Profiting From Inmate Labor

June 15, 2024

A Tennessee sheriff is facing 22 charges in two counties after a state investigation found he allegedly participated in a scheme to profit from inmate labor.

Gibson County Sheriff Paul Thomas was indicted this week by separate grand juries in Gibson and Davidson Counties, according to the Tennessee Office of the Comptroller of the Treasury.

Sexual Contact With Inmates

TCA 39-16-408

(a) For purposes of this section, unless the context otherwise requires:

(1) “Law enforcement officer” and “correctional employee” include a person working in that capacity as a private contractor or employee of a private contractor; and

(2) “Volunteer” means any person who, after fulfilling the appropriate policy requirements, is assigned to a volunteer job and provides a service without pay from the correctional agency, except for compensation for those expenses incurred directly as a result of the volunteer service.

Sexual Contact With Inmates

TCA 39-16-408

(b) It is an offense for a law enforcement officer, correctional employee, vendor or volunteer to engage in sexual contact or sexual penetration, as such terms are defined in § 39-13-501, with a prisoner or inmate who is in custody at a penal institution as defined in § 39-16-601, whether the conduct occurs on or off the grounds of the institution.

(c) **A violation of this section is a Class E felony.**

Tennessee Sheriff, 4 Others Accused of Having Sex With Inmates

Published June 28, 2007

GAINESBORO, Tenn. – The Jackson County sheriff and four other law enforcement officials were arrested on charges of sexual misconduct with inmates.

Sheriff Kenneth Bean is charged with 13 counts of official misconduct, two counts of sexual contact with an inmate and three counts of sexual battery, all stemming from incidents at the county jail and sheriff's office in Gainesboro, about 65 miles northeast of Nashville.

Bean turned himself over to Tennessee Bureau of Investigation investigators on Wednesday under an indictment handed down by a Jackson County grand jury, TBI spokeswoman Jennifer Johnson said.

Ex-sheriff Sentenced to 33 Months in Prison for Having Sex With Inmates

Published August 23, 2017

A Tennessee sheriff has been sentenced to two years and nine months in prison after he admitted that he had sex with jail inmates he oversaw.

Former Fentress County Sheriff Charles Cravens was sentenced Wednesday in U.S. District Court in Nashville.

He pleaded guilty in April to three counts of honest services fraud and one count of deprivation of rights under color of law.

THE END

