

Collecting Court Fines and Fees

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal 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 municipal 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 MTAS website material.

Sincerely,

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Table of Contents

Collecting Court Fines and Fees	3
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Collecting Court Fines and Fees

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Collecting Debt

Cities may employ the same tools for collecting debt that any private sector organization may use to recover a civil debt. They include:

1. Collection agency - State law permits cities to enter into contracts with collection agencies, upon the passage of an ordinance by the governing body approving the contract. The city's bidding and purchasing procedures must be followed.
2. Garnishment - The city may take action through the general sessions court to garnish the wages of any debtor.
3. Injunction-The city may seek an injunction through the chancery court to compel a defendant to comply with a municipal court judgment. This avenue may be helpful when a defendant refuses to comply with a judgment requiring action, such as removing horses from a lot in the city, removing junk from a yard, or bringing a building up to code specifications. Some defendants refuse to comply with a municipal court judgment because there is no potential jail sentence. Failure to comply with a chancery court injunction can result in a high fine and/or jail time.

It is the duty of the city judge to collect fines and costs imposed by the city court. Fines and costs assessed in municipal courts are collected in the same manner as civil judgments. All judgments for money and costs issued by any court of this state may be enforced by execution. See, T.C.A. §§6-54-303 and 26-1-103. If a defendant makes a partial payment, the funds should be applied in this order: 1) payment of litigation taxes; 2) once litigation taxes have been paid, then payment of costs; 3) then additional moneys shall be credited toward payment of the fine. T.C.A. § 40-24-105 (a).

The municipality may enact an ordinance to employ a collections agency where the fines and costs have not been collected within 60 days after they were due, and subject to the conditions set forth in T.C.A. § 40-24-105(e)(1)-(4). The authorizing ordinance shall include the requirement that the contract between the municipality and the collection agency be in writing. The collection agency may be paid an amount not exceeding 40 percent of the sums collected as consideration for collecting the fines and costs. The written contract between the collection agency and the municipality shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

The collection of unpaid parking tickets is governed separately by T.C.A. § 6-54-513. A municipality shall have no authority to forward to a collection agency unpaid parking tickets for collection without notifying the owner of record of the motor vehicle for which the parking ticket was issued. The notification shall be sent by mail to the owner of record the motor vehicle that such action will occur unless the owner pays the unpaid tickets within 30 days from the date the letter is mailed. The municipality shall also include in the notification a statement that, if the ticket is forwarded to a collection agency for collection, the agency may notify the credit bureau or credit agency of such fact, which could affect the owner's credit rating.

Alternatively, if a defendant fails to pay fines or costs ordered by the court, the city may commence an action in general sessions court to garnish the defendant's wages or personal property, which is referred to as an "action for execution." T.C.A. § 26-2-201 *et seq.* In such execution or garnishment actions, police officers of the municipality may serve notice on defendants anywhere in the county in which the city is located. T.C.A. § 6-54-303(b).

An action to garnish wages must be filed in a court in the county in which the defendant is employed. Garnishment is a very effective method for collecting fines, as the payments are made by the employer through the court clerk, and the costs associated with the garnishment action are added to the judgment being collected.

If the defendant is a property owner, the city may file suit in chancery court seeking to attach a lien against the defendant's property. Liens may not be attached against property without a state court order unless specific statutory authority exists. No such authority exists for municipal court fines and costs, so the city must go to the expense of a lawsuit to attach such liens. Liens are generally collected only if the property sells.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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