



## Failure to Appear in Court

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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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## Failure to Appear in Court

**Reference Number:** MTAS-308

Every court experiences the problem of defendants who fail to appear in court or satisfy a citation prior to court. Traffic violators who fail to appear are fairly easy to deal with, but other ordinance violators are more difficult.

## Failure to Appear in Court for Traffic Violation

**Reference Number:** MTAS-310

### ***Failure to Appear for a Traffic Violation***

The Tennessee Department of Safety is authorized to suspend the driving privileges of violators who fail to appear in court or satisfy a citation. See, T.C.A. §55-50-502. Occasionally, a defendant will appear in court but neglect to pay fines or costs. This is called "failure to satisfy a citation," and it should be treated the same as failing to appear in court. Tennessee has an interstate compact with most other states that deals with violators who fail to satisfy citations they receive in a state other than the one in which they live. If an out-of-state resident receives a traffic citation while traveling through Tennessee and fails to satisfy that citation, the Tennessee Department of Safety will notify the other state, and the other state will suspend the driver's driving privileges. The same holds true for Tennessee residents who fail to satisfy a citation received in another state.

Failure to Appear (FTA) is when a defendant did not appear for court at the designated time and date. Typically, the court will find the defendant guilty of the ordinance violation, by default, due to the failure to appear. The guilty conviction should be timely submitted on the court action report. The default judgment may be appealed to circuit court. The clerk should submit "Failure to Appear (FTA)" on the court action report. Any request for suspension must be submitted to the Department of Safety **within six (6) months of the violation date**. T.C.A. §55-50-502(a)(1)(I).

Failure to Satisfy (FTS) indicates the defendant did appear in court, but did not do all of the things ordered by the court (such as payment of fines, payment of costs, or completion of a traffic school). Since the defendant was found guilty of the traffic violation, a court action report should be timely submitted to report the conviction. If the defendant fails to pay the citation, the court clerk should indicate on the court action report that the defendant "Failed to Satisfy" (FTS).

Note: There are two cases on appeal in the Sixth Circuit concerning the State's process for suspending and/or revoking drivers' licenses. Specifically, these cases address due process requirements, payment plans, and indigency determinations. The case addressing suspended drivers' licenses is Robinson v. Purkey No. 3:17-cv-0126 (M.D. Tenn., amended complaint filed 12/19/17); 2018 WL 5023330 (10/16/18). The case addressing drivers' licenses is Thomas v. Haslam, No. 3:17-cv-00005, (M.D. Tenn., filed 1/4/17), 2018 WL 3301648 (July 2, 2018). The Tennessee Department of Safety stopped suspending drivers' licenses for failure to pay after the Robinson case was decided in October 2018. If you have any questions about the process, please contact the MTAS Municipal Court Specialist.

## Notifying the Department of Safety

**Reference Number:** MTAS-312

When a defendant fails to appear in court or satisfy a traffic citation, the municipal court may order the clerk to notify the Department of Safety of such action on the Court Action Report (courtreport.safety.tn.gov) [1]. The traffic case is then marked "Failed to Appear" (FTA) or "Failed to Satisfy" (FTS). Unlike reports of convictions, the failure to satisfy and failure to appear reports are optional.

Upon receipt of the FTA or FTS report, the Department of Safety will first try to notify the defendant by mail that driving privileges will be suspended. The defendant is given an opportunity for a hearing to show that there is an error in the records. The request for a hearing must be made within thirty (30) days of the notification. See, T.C.A. § 55-50-502(a)(1)(I).

Cities may send a letter to the defendant before the citation is sent to the Department of Safety for suspension. The letter would serve as a reminder to the defendant, as well as providing for another opportunity for a hearing on the matter.

The Department of Safety will not allow official correspondence to be forwarded to another address. Licensed drivers are required by law to notify the Department of Safety of any address change, and people who move without notifying the Department of the change of address will not receive the warning letter or the subsequent notification of suspension. The Department of Safety uses only the official address on the driver's license, not any corrected address the violator may have given to the officer at the time the citation was issued.

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## When A Citation is Satisfied

**Reference Number:** MTAS-313

### ***When the Defendant Satisfies the Citation***

The Court Action Report contains four copies. The original copy is sent to the Department of Safety as notification that the defendant failed to appear. The second copy of the form is sent to the department of safety, the third copy is given to the defendant, and the last copy is filed with the original citation.

When the defendant satisfies the citation, an additional entry is made on the remaining copies indicating that the citation has been satisfied.

Also, notification should be made on electronic Court Action Reports. When a citation is satisfied, an entry should be made on the electronic report.

## Failure to Appear in Court for Other Violations

**Reference Number:** MTAS-311

Failure to appear in court may be treated as contempt of court. Under Tennessee law, a municipal court has the power, as do other courts, to punish for contempt of court. The Municipal Court Reform Act provides that contempt of court is punishable by a fine in an amount not exceeding \$50. T.C.A. § 16-18-306.

As stated earlier, municipal courts are civil in nature, and municipal court cases are somewhat like lawsuits. When a defendant fails to appear in court, whether or not the judge finds the defendant guilty of contempt, a judgment is entered against the defendant by default. The defendant may still appeal the default judgment to circuit court within 10 days by posting a bond in the amount of \$250. T.C.A. § 16-18-307. After 10 days, the defendant has no right to challenge the original charge. By failing to appear, he or she has essentially lost the case.

Cities may adopt ordinances making failure to appear a separate ordinance violation. If a city has such an ordinance, a new citation, which may be served personally or by certified mail, may be issued when the defendant fails to appear. The defendant is entitled to a hearing on the failure to appear charge before the \$50 fine is assessed. In those situations, the defendant has a separate citation pending in the court to which court costs and litigation taxes may attach.

## Driver Improvement Schools

**Reference Number:** MTAS-1587

Many courts use driver improvement schools as an alternative to requiring a defendant to pay a fine. A judge may actually require a defendant to attend traffic school in addition to or in lieu of any other punishment. In most cases, a judge will dismiss the charge upon completion of a traffic school. The court should still submit a Court Action Report. The report should be clearly marked as dismissed, with the "Traffic School" box checked. Submitting the Court Action Report will allow the courts to see if a defendant has previously had a case dismissed as a result of completing a driver improvement class.

It is noted that first-time offenders of the texting law are required to attend a driver improvement course, in addition to a fine. T.C.A. § 55-8-199(d)(2).

Also, a clerk should provide defendants a list of approved traffic schools in the county. TCA. § 55-10-301 (b)(4). See <https://www.tn.gov/safety/driver-services/driverimprovement/defensivedri...> [2]

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### Links:

[1] <http://courtreport.safety.tn.gov>

[2] <https://www.tn.gov/safety/driver-services/driverimprovement/defensivedriving.html>

*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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