



Drug Related Operations

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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Drug Related Operations

Reference Number: MTAS-403

Drug Fines; Special Revenue Fund

T.C.A. § 39-17-428 and T.C.A. § 53-11-451, respectively, entitle local governments responsible for arrests in drug-related cases to retain the proceeds of fines and of goods seized and forfeited in such cases. T.C.A. § 39-17-428(c)(1) requires that 50 percent of the fines received by the local government be paid into a special revenue fund; the other 50 percent is paid into the local government's general fund.

With respect to the special revenue fund, the money may be used for drug enforcement, drug treatment and education, and certain non-recurring drug program general law expenditures (generally capital outlays). In addition, "a portion of any fine collected pursuant to subsection (b) (the schedule of fines for certain drug-related offenses) may be expended to fund programs and services for infants and children who are afflicted by HIV or AIDS." In the case of municipalities, the chief law enforcement officer and the mayor (or the county mayor in Moore and Trousdale counties) must recommend a budget for the fund, which budget must be approved by the municipal governing body. Different requirements apply to Metropolitan Nashville-Davidson County. T.C.A. § 39-17-420(a)(2).

Cash transactions from the special revenue fund related to undercover operations must comply with procedures established by the comptroller. The law continues to require that purchases with drug fund money comply with all applicable purchasing laws. Twenty percent of the funds must be set aside to pay for automated fingerprinting equipment until reaching the equipment's purchase price. Instead of buying the fingerprinting device, local governments may enter into agreements with other local governments to use their automated equipment. Additionally, local governments may continue to earmark up to 20 percent of drug fund revenues to offset the cost of dedicated phone lines, maintenance contracts, and support contracts for the automated fingerprinting instrument. T.C.A. § 39-17-420.

Clerks of municipal courts exercising general sessions jurisdiction must collect \$75 from any person found in violation of the terms of a suspended sentence when the violation is based upon a positive drug test. Funds from this assessment will be used to administer drug court treatment programs created by courts exercising criminal jurisdiction. This act also allows juvenile courts to create and operate drug court treatment programs, but provides that revenues from the \$75 fee cannot be used to support these juvenile programs. T.C.A. §§ 16-22-109, 114.

Methamphetamine Precursors

T.C.A. § 39-17-431 establishes several restrictions on the sale of methamphetamine precursors, such as limiting their sale to only licensed pharmacies and prohibiting the sale of products containing precursor base of more than 5.76 grams to the same person in a 30-day period. This section supersedes ordinances that were in effect on March 31, 2005.

Quarantine of Drug Sites

T.C.A. §§ 68-212-501, *et seq.*, allow local law enforcement agencies to quarantine methamphetamine and other stimulant drug manufacturing sites until they are cleaned up and certified by an industrial hygienist as safe for humans. Within seven days of a quarantine order, the law enforcement agency must notify the commissioner of the Department of Environment and Conservation of the date of the order, county, address, name of the site owner, and a brief description of the site. The law enforcement agency must also file a notice of quarantine with the county register.

Charging Inmates for Services

A municipality may charge an inmate in the municipal workhouse a copay for substance abuse treatment provided by the municipality. T.C.A. § 41-4-115(d). The municipality also may charge a fee to inmates for participating in GED or other academic testing and for escorts to funeral homes and health care facilities upon the death or sickness of a family member. The governing body must authorize these fees by a two-thirds vote.

Drug Dealer Liability

T.C.A. §§ 29-38-101, *et seq.*, establish procedures for municipalities and others to obtain damages that result from illegal drug use.

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.

Source URL (retrieved on 10/26/2020 - 6:59pm): <https://www.mtas.tennessee.edu/reference/drug-related-operations>



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