

## Procedures Under the Act

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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 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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## Procedures Under the Act

**Reference Number:** MTAS-273

The remainder of the act provides the procedures for making claims against governmental entities and for determining liability, limitations on liability, and the means of satisfying claims or judgments. An important provision relates to employee liability.

A governmental entity or employee is given 60 days to answer or otherwise respond to a claim, action, or suit. If the claim is denied, the claimant may institute an action in the circuit court. This action must commence within 12 months after the cause of action arises. A significant provision gives circuit courts exclusive original jurisdiction over any action brought under the act (except in Shelby County where General Sessions Court has concurrent jurisdiction up to jurisdictional limits), and the action is heard and decided without jury intervention, unless a non-governmental defendant also is sued. In these cases, any party may request a jury.

Suits filed under the act must be brought in the county where the governmental entity is located or in the county in which the incident occurred from which the cause of action arises. A governmental entity operating in more than one county shall be deemed to be located in the county where its principal office is located.

An officer or body appointed by the governing body of any governmental entity may, subject to such regulations and procedures as may be prescribed by the governing body, compromise and settle any action for damages or relief sought under the act. If no such appointment has been made, the chief administrative officer of the governmental entity shall be deemed to have been appointed and to have such power. T.C.A. § 29-20-309.

Before holding a governmental entity liable for damages, the court must first determine that:

- the employee act (s) was (were) negligent and the proximate cause of the plaintiff's injury;
- the employee(s) acted within the scope of his (their) employment; and
- none of the exceptions is applicable. T.C.A. §§ 29-20-301–313.

Several sections of the act deal with paying claims or judgments against governmental entities. Any claims approved for payment by a governmental entity or any final judgment obtained against a governmental entity shall be paid from funds appropriated or reserved for that purpose. At the governmental entity's discretion, claims may be paid in not more than 10 equal, annual installments commencing the next fiscal year or in such other manner agreed upon by the claimant and governmental entity. Installment payments shall bear interest at 6 percent per annum on the unpaid balance. If the judgment is less than \$5,000, a lump sum payment must be made. T.C.A. § 29-20-312.

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