FOUNDATIONS AND UPDATES SEMINAR

Fall 2021
Howdy!

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Modules

1. Municipal Court Reform Act
2. Fees, Court Costs, and Taxes
3. Reporting to the State
4. Frequent Issues
5. Updates for 2021
1. Municipal Court Reform Act
2. Fees, Court Costs, and Taxes
3. Reporting to the State
4. Frequent Issues
5. Updates for 2021
Jurisdiction for Municipal Courts

- Charter
- Code of Ordinances
- Municipal Court Reform Act
- Other state statutes
Charters compared to Codes

**Charter**
- Basically, a city’s birth certificate issued by the TN General Assembly
- Says what a city can do and cannot do
- Rarely changes, and difficult to do so
- Three types of charters
  - Private Acts – specific to a city (these must have been in existence prior to 1953)
  - General Laws – apply to all cities within a certain class, city may adopt “form charter” that are written into the state code
  - Home Rule – writes charter and adopts it in referendum.

**Code of Ordinances**
- Compilation of city’s laws and some of its regulations
- Passed by the city’s governing body, like city council or board of aldermen
- Regulations, laws, budget items, who makes decisions
- Should be updated frequently with new ordinances
- Much easier to revise than a city’s charter
- Can adopt certain state misdemeanors into code and enforce in city courts.
Charter and Jurisdiction

- Charters establish the municipal court
- Determines power of the city court
- Determines if judges are elected or appointed
- Determines if court clerks are elected or appointment
Municipal Court Reform Act – passed in 2004

Municipal Court Reform Act – TCA 16-18-301 et. seq. covers:

- Jurisdiction of Municipal Courts
- Types of offenses heard
- Clerk Duties
- Appeals
- Legal authority for fines, fees, court costs, taxes
- Judge and court clerk training
- Best introductory guide to how municipal courts function
- But, not an all-encompassing statute for city courts
Definitions - TCA 16-18-301

There are two definitions in the Municipal Court Reform Act. These two definitions play a role in how one may interpret some of the actions or roles of a city court.

- TCA 16-18-301(b)(1) - “Any law to the contrary” includes, but is not limited to, any conflicting provision of any general statute, local law, private act, charter provision, municipal law, or municipal ordinance;

- TCA 16-18-301(b)(2) – “Municipal court” includes the city, town, mayor’s, recorder’s or municipal court, or other similarly functioning court, however designated, for any city, town, municipality or metropolitan government, whether the court exists pursuant to general statute, local law, private act, charter provision, municipal law, municipal ordinance or other legal authorization.
Municipal Court Jurisdiction – TCA 16-18-302

Pursuant to **T.C.A. § 16-18-302(a)(1) and (a)(2)** a municipal court can hear the following:

Part (1)
- Cases for violation of the laws and ordinances of the municipality; or
- Cases arising under the laws and ordinances of the municipality; **and**

Part (2)
- City Ordinances that mirror/duplicate/incorporate by reference State criminal laws that are Class C misdemeanors where the maximum penalty is a civil fine that does not exceed $50

Ex: Rules of the Road Ordinance

So what is the difference?
Two types of jurisdiction

**Traditional Jurisdiction**
- “Civil in Character”
- Hears municipal code ordinance violations
- Hears Class C misdemeanors adopted into the city code
- No risk of going to jail
- Most common

**Concurrent General Sessions Jurisdiction**
- Civil and criminal cases
- Hears municipal code violations
- Hears Class A, B, and C misdemeanors
- There is a risk of going to jail
City of LaVergne v. LeQuire

Key case about civil versus criminal court jurisdiction –

City of LaVergne v. LeQuire, 2016 WL 6124117

This case involves:
1. Municipal court jurisdiction.
2. What constitutes a city ordinance charge (civil, municipal court).
3. What constitutes a state criminal charge (state criminal court).
4. Are those two charges interchangeable?
5. What does your citation need to look like?
6. What happens if you cite the wrong thing?
City of LaVergne v. LeQuire – quick facts

City police officer wrote a ticket for speeding to be heard in city court.

LaVernge adopted the “Rules of the Road” as a city ordinance, but....

But the citation only listed “Speeding - TCA 55-8-152.”

No reference to any city ordinance was on the ticket.
City of LaVergne v. LeQuire – quick facts

The defendant argued to the city judge that since the ticket only referenced a state criminal TCA charge, the municipal court did not have proper jurisdiction to hear it.

City judge ruled against him, saying the penalty is $50 in either city court or state court, and he was convicted of speeding.

He appealed to circuit court and lost. He then appealed to the TN Court of Appeals, and they reversed the lower courts in favor of the defendant.

Ruling – Because the TCA is a criminal charge with a possibility of jail time, and since municipal courts are civil with no possibility of jail time, the two charges are not interchangeable, and you must give proper notice on the ticket of *exactly* what charge you are citing someone.
City of LaVergne v. LeQuire

City courts can hear Class C Misdemeanors that are adopted into the city code, but...

The citation issued must do two things:

1. Cite the city ordinance on the ticket to give the defendant notice that the violation is a civil violation, not a criminal violation, and

2. The citation must give sufficient notice of what Class C Misdemeanor was violated. Meaning the ticket needs to have the city ordinance and a reference to what specific violation occurred (detailing speeding, or the TCA code that was adopted into the Rules of the Road).
Jurisdiction

We will come back to City of LaVergne v. LeQuire later in this class.
Traditional Municipal Courts

“Civil in Character”

Municipal ordinance violations are civil in nature – Mullins v. State, 380 S.W2d 201 (Tenn 1964)

“Over the years this Court has held that violations of a city ordinance is proceeded with as a civil matter rather than a criminal court.

Reaffirmed in Chattanooga v. Davis, 54 S.W.3d 248 (Tenn. 2001) – “Since our decision in City of Chattanooga v. Myers, … the law now appears settled that proceedings for a municipal ordinance violation are civil in nature, at least in terms of technical application of procedure and pursuing avenues of appeal…Indeed, depending up on the precise issue before the particular court, proceedings for a municipal ordinance violation have been described as “civil in character,…”
Traditional Municipal Courts

Even if you are a traditional city court, TCA 16-18-302(b)(1)-(8) allows cities with populations over 150,000 to expand their jurisdiction to enforce municipal laws that mirror/duplicate/incorporate by reference a few more severe violations:

- Driving without a license – TCA 55-50-301
- Reckless Driving (Class B Misdemeanor) – TCA 55-10-205
- Alcohol violations (Class A Misdemeanors)
  - Underage consumption
  - Underage purchase
  - Illegal possession and transportation, and
  - Illegal sales
- Wearing white after Labor Day
- Forcing your husband to go “antiquing” with you during football season.
MUNICIPAL COURT JURISDICTION – TCA 16-18-302 (B)

Cities with populations over 150,000:

- Nashville – (General Sessions)
- Memphis – (Expanded jurisdiction)
- Knoxville – (Expanded jurisdiction)
- Chattanooga – (Expanded jurisdiction)
- Clarksville – Traditional only
- Murfreesboro – Traditional only
TCA 16-18-303 allows every popularly elected or appointed judge of a municipal court to administer oaths.

This allows judges to swear in defendants, witnesses, and police officers during hearings.

This also allows judges to swear in city positions like city attorney, finance director, court clerks, etc. if your city code requires oaths.
Becoming a new court clerk TCA 16-18-310(a)

TCA 16-18-310(a) – A person can become a new municipal court clerk in three ways:

1. Election
2. Appointment
3. Designated

Once a person is the new court clerk, someone needs to notify the Administrative Office of the Courts and tell them who the new clerk is.
Court Clerk Duties – TCA 16-10-310(b)

Under **T.C.A. § 16-18-310(b)**, Municipal Clerks shall maintain accurate and detailed records and summary reports of all financial transactions and affairs of the court, reflecting:

- All disposed cases (judgments/guilty/dismissed, etc.)
- Assessments
- Collections (including keeping track of payment plans)
- Suspensions
- Waivers and transmittals of litigation taxes
- Court costs
- Forfeitures
- Fines
- Fees
- Any other receipts and disbursements
Contempt of Court – TCA 16-18-306

Can you have contempt of court in a traditional city court?

Contempt of Court shall be punishable by a fine in the amount of $50

A municipal judge cannot send anyone to jail for contempt in a traditional municipal court.

Offenses may include:
1. Mouthing off in court
2. Deliberately missing your court date without a proper reason (and you can prove it)
3. Wearing a Bama jersey (like anywhere)
Appeals – TCA 16-18-307

Pursuant to T.C.A. § 16-18-307, a party unhappy with the ruling from the municipal court judge may appeal directly to the circuit court of that judicial district.

Requirements:
- Must file notice of appeal within 10 days (not counting Sundays) with the circuit court of the county;
- Give a $250 bond for the person’s appearance and faithful prosecution of the appeal (or file a pauper’s oath)
- “A party” can be either a person, a company, or even the city.

De Novo Review - All appeals will be heard “de novo” meaning that the circuit court will hear the appeal as if it was brand new, never been heard before in any other court, and will not presume the municipal court’s previous ruling as either correct or incorrect.
The bond is essentially a pile of money that the circuit court will use to pay off any unpaid circuit court fees if the defendant owes any additional money.

The city court clerk will then record the bond payment in the file and deliver the money to the circuit court clerk.

If the defendant pays everything in the circuit court, then defendant should receive a return of the $250 in full.

The defendant will file the appeal.

MTAS recommends that the city court clerk collect the $250 bond from the defendant.

The defendant most likely will also have to pay the filing fees associated with that circuit court. Those fees may differ from county to county.
Appeals and Money

If a defendant appeals a conviction in city court, the person is still required to pay the fine or a comply with a payment plan, even while the case is pending on appeal.

TCA 40-24-101:

(a) When any court of this state, including municipal courts for violation of municipal ordinances, imposes a fine upon an individual, the court may direct as follows:

(1) That the defendant pay the entire amount at the time sentence is pronounced;

(2) That the defendant pay the entire amount at some later date;

(3) That the defendant pay the fine in specified portions or installments at designated periodic intervals and that the portions be remitted to a designated official, who shall report to the court in the event of any failure to comply with the order; or

(4) Where the defendant is sentenced to a period of probation as well as a fine, that payment of the fine be a condition of the sentence.
Municipal Court Judges – TCA 16-18-308

Generally, a municipal court judge may not hold any other office or employment with the city.

Exceptions:

• If prior to March 1, 2005, the person was an employee of the city and held office as a city judge, but if that person discontinues to serve as an employee or judge, the replacement cannot serve as both employee and judge.

• If a municipal charter allows the person serving as a judge shall also serve as the recorder, then the person can do both jobs.
Court Clerk and Judicial Training – TCA 16-18-309

**Judge Training**

- Complete the required CLE hours for lawyers PLUS an additional 3 hours of judge training through the AOC

- Most city judges practice law full time and serve as judge as a part time role.

- Larger cites like Memphis, Nashville, Chattanooga, and Knoxville have full time city judges.

**Court Clerk Training**

- Court Clerks must complete at least three hours of training each year.

- Training by MTAS
- Training approved by the AOC
- Training by me!
- Only the chief court clerk is required to get the training.
Concurrent General Sessions Jurisdiction – TCA 16-18-311

TCA § 16-18-311 is a lengthy section that details the required steps a city must undertake to exercise or create a court with general sessions jurisdiction.

Courts with general sessions jurisdiction can hear the same cases as the county’s general sessions court.

- All classes of state criminal misdemeanors. Reckless driving, alcohol violations, suspended driver’s licenses, some drug offenses.

- Courts that were exercising concurrent general sessions jurisdiction prior to May 12, 2003, could continue to exercise GS jurisdiction upon passage of the MCRA.

- Courts that had GS jurisdictions in their charters but were not exercising GS court cases, however, could not start exercising concurrent GS jurisdictions.
Substitute Judges – TCA 16-18-312

If a municipal judge is unable to preside over municipal court for any reason, then a special substitute municipal judge shall be determined pursuant to an:

1. Ordinance of the governing body of such municipal court
2. In the absence of such ordinance, then a municipal judge may designate in writing, to be filed with the clerk of the municipal court, the name a special substitute judge to hold court in the municipal judge’s place and stead.
3. The special substitute judge must meet the judge requirements set forth in the state law and the city’s charter and must take the same oath as the municipal judge
4. Such appointment is effective for no more than 30 days, after which a new appointment is required.

Municipal court judges and general sessions court judges are empowered to sit by interchange for other municipal court judges. TCA 16-18-312(b)
Juvenile jurisdiction – TCA 37-1-146

- Juvenile courts have original jurisdiction for traffic violations of minors.
- Juvenile court judges may waive that jurisdiction to city courts for traffic offenses.

Under the TCA 16-18-302(d) (Municipal Court Reform Act), a municipal court may exercise no jurisdiction other than the jurisdiction authorized by the section; provide however that this section shall not be construed to impair or in any way restrict the authority of a juvenile judge to waive jurisdiction over any cases or class of cases of alleged traffic violations, as authorized pursuant to TCA 37-1-146, or the authority of a municipal court to receive and dispose of such cases or classes of cases of alleged traffic violations.

TCA 37-1-146(c) (Juvenile Courts and Proceedings) allows the juvenile court judge to waive jurisdiction of traffic violators who are 16 years of age or older, and such cases shall be heard by the court having jurisdiction of adult traffic violators, or the child’s parent or legal guardian may pay the stipulated fine to a traffic bureau.
Juvenile traffic offender - continued

When a municipal court judge is permitted to hear a juvenile traffic offense case, the court may make one or any combination of the following decisions:

1. Suspend and hold the child's driver license for a specified or indefinite time;
2. Limit the child's driving privileges as an order of the court;
3. Order the child to attend traffic school, if available, or to receive driving instructions;
4. Impose a fine of not more than fifty dollars ($50.00) against the child's parent or legal guardian; or
5. Perform community service work in lieu of a fine (permitted by law, but generally not advised in city court because it may border on criminal court remedies)

Tenn. Code Ann. § 37-1-146

NOTE – Juvenile court law allows a juvenile judge to place the child on probation pursuant to § 37-1-131(a)(2) but municipal courts do not appear to have that type of power since that is a criminal law affiliated program.

What does “hold” mean?
Juvenile traffic offender - continued

Pro tips: If your juvenile court judge wishes to waive jurisdiction for juvenile traffic violators, try to get that in writing.

Two ways:
1. Judge writes an individual order for each case waived (very tedious, highly unlikely to do so).
2. Judge issues a standing order waiving jurisdiction for 16- and 17-year-old traffic violators to the appropriate municipal court (much more efficient).
Fines, Fees, Court Costs, and Taxes

1. Judgment
2. Fines
3. Court Costs
4. Litigation Taxes
5. Bond Forfeiture Fees
Parts of a City Court Judgment

1. Fine
2. Court Costs
3. State Litigation Tax
4. Local Litigation Tax (if city has one)
5. E-citation fee (if city has one of those too)

_____________________________

= Grand total of Judgment
Part 1 - Fine

What’s the maximum fine in a municipal court?

But why?

Side note: Please don’t print this slide out and try to spend this. It’s counterfeiting, which according to Elle Woods from “Legally Blonde” is illegal.
Part 1 – Fines

The Tennessee Constitution, Article VI, § 14 places a $50 limit on any fine assessed against a party where there is not an opportunity for the fine to be assessed by a jury of a person’s peers.

What would $50 in 1796 be worth today?
$1,036.
Part 1 - Fines

However, while the fine itself may only be $50, the additional court cost can exceed $50 and be constitutional as long as the additional court costs are not punitive in nature.

See Tennessee Attorney General Opinion Number 06-075
Part 1 – Fines (Punitive Fines vs. Remedial Expenses)

Big Case – City of Chattanooga v. Davis, 54 S.W.3d 248 (2001)

- Main takeaways
  • The fine is the punitive element, i.e., the part to punish.
  • This punitive fine is capped at $50 because of the State Constitution.
  • This $50 fine limitation applies for municipal ordinance violations, even if those violations were heard in courts with general sessions jurisdictions.
  • However, other expenses and fees can be assessed if they are remedial in nature.
  • These “remedial expenses” are not capped at $50.
  • You must be very clear and specific with remedial expenses.
# Punitive vs. Remedial Fines

## Punitive Fines
- Intended to punish
- Do not have to show why the city needs this fine, it just gets it.
- Can do a fine for each violation, but subject to the $50 cap.

## Remedial Costs
- Intended to allow cities to recover identifiable costs associated with the case.
- Must clearly and specifically itemize how these expenses were incurred on an individual case.
- Cannot broadly call expenses “Administrative Expenses” and recover them.
- Examples of Specific Charges
  - Hiring a private process server
  - Landfill fees for a particular case
  - Special clean up costs for environmental cases
Part 1 - Fines

**Question:** Can a city court judge do “$50 per day until it’s cleaned up?”

**Answer:** Not advised, but not entirely no. Be careful.
Part 1 - Fines


- City court issued citations for defendant to clean up property of cars, trailers, and junk, on three separate occasions.
- Defendant never cleaned up despite multiple chances.
- City code allowed fine “up to $300” so city did $300 per day x 62 days = $18,600 judgment in city court
- Defendant appealed to circuit court.
- Circuit court ruled $300 impermissible, reduced to $50 per day, but allowed the $50 per day x 62 days to stand.
- New total = $3,100
- Caution: This court viewed this fine as “remedial” not punitive, but did not really detail why it was viewed remedial.
- Takeaway: Be prepared to defend how a “per day” fine is remedial and not punitive. Be specific.
Part 1 – Fines - “$50 per day” recommendation:

MTAS does not recommend the $50 per day approach because it is too subjective.

Instead, issue a ticket, give a reasonable amount of time to correct the action, and if it’s not corrected, issue another citation.

Repeat until case is remedied or escalate the case to a circuit or chancery court like any other plaintiff. This would remove the $50 cap and avail the city to stronger remedies in a court of record.

Downside: It’s a full-blown lawsuit and that takes time and money.
Part 2 – Court Costs

T.C.A. § 16-18-304 discusses court costs, but very generally. Each city sets its own court costs and they vary from city to city. Court Costs are intended cover the expenses for

- Clerk staff
- Judges
- Courtrooms
- Court officers
- Paper
- Computer software
- All things needed to run a court

Ideally, most of the funds needed to cover the court come from court costs, and less from tax dollars.
Part 2 – Court Costs

There is no set amount for any city’s court costs
No state guidance on court costs
Key phrase is “reasonable court costs”
Court costs are not intended to be punitive
Court costs are to be determined by the expenditures needed to properly operate your court
Court costs are typically established in your city’s code of ordinances, or established by a subcommittee of the city council or board of aldermen

Tip: Don’t necessarily base your court costs off of similar sized cities or geography. Seemingly similar cities may have completely different court operations based on interstate travel, tourism, or geography.
Part 2 – Court Costs

**Municipal Training Education Fee - $1**

Under **T.C.A. § 16-18-304**,

- The only specific dollar amount mentioned in the MCRA regarding court costs is the Municipal Training Education fee.
- $1.00 of each court costs transactions associated with paying a fine, fee, litigation tax, etc. will go to the Administrative Office of the Courts (AOC) for training municipal clerks statewide.
- MTAS is specifically named to provide the training for this service to the clerks statewide.
- That $1 fee covers these classes and trainings across the state.
- That includes this class right here.
Can a city have an alternative court costs for certain offenses that get resolved prior to court like insurance violations, headlights, equipment?

Yes, but it needs to be made clear in a city ordinance and make sure your judge properly delegates that authority to the court clerk’s office. Also make sure your judge is on board with it.
Part 2 – Court Costs – Alternative Court Costs

Sample:

3-202. Imposition of Fines, Penalties, and Costs. (1) All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

(a) …..

(b) When any person has been charged with violation of a law regarding vehicle equipment (including but not limited to inoperable headlights, tail lights, brake lights or turn signals), financial responsibility, driver licensing, or vehicle licensing and registration, the charge may be dismissed if the person charged with the violation submits evidence of compliance with such law on or before the court date; provided, however, that the city judge may establish a separate court cost not to exceed $25.00 to be collected from the person charged with the violation. This separate court costs will be assessed in lieu of the court costs detailed in Section 3-202(1)(a) above.
## Part 2 – Court Costs for concurrent GS jurisdictions

<table>
<thead>
<tr>
<th>Municipal Ordinance violations</th>
<th>General Sessions violations</th>
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<tbody>
<tr>
<td>For municipal ordinance violations (civil violations), use the court costs detailed in the city ordinances.</td>
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<tr>
<td>• Traffic court</td>
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<tr>
<td>• Codes violations</td>
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<tr>
<td>• Class C Misdemeanors adopted into the city ordinances</td>
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<tr>
<td>• For Class A and B Misdemeanors heard as state criminal violations, you can use various statutory taxes/fees/costs available to county courts.</td>
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<td>• Ex: TCA 8-21-401(g) et. seq.</td>
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<td>• $62 fee for criminal conviction</td>
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<tr>
<td>• $42 fee for traffic conviction</td>
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<tr>
<td>• $40 for failure to appear</td>
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<td>• $100 for expunctions</td>
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</table>
Part 3 – State Litigation Tax

TCA § 16-18-305(a) – all cases in municipal court

- State of Tennessee privilege tax on litigation - $13.75
- Different than court costs
- Send to Department of Revenue monthly

TCA § 16-18-305(b) - $1 litigation tax on all public parking tickets

- Typically not heard in a city court
- Can be parking meters, fire lanes, handicap spaces, city owned parking structures
- Even if your town doesn’t have parking meters, you can still issue parking citations (if violation is in city’s code)
- Parking violations can be issued by both sworn (police and/or fire) and non-sworn personnel (parking enforcement)
Part 3 – State Litigation Tax

**Collect litigation taxes when:**
1. Found guilty by a judge after a hearing
2. Pleads guilty
3. Pays the fine before court

**Do not collect when:**
1. Found not guilty by a judge after a hearing
2. Case dismissed by a judge (but a judge could still collect court costs)
3. Cash bond paid (but you do collect the cash bond forfeiture fee)

**Two Notes:**
1. Only collect litigation tax if convicted. See TCA 67-4-602(e).
2. If convicted you collect either the state litigation tax or the cash bond forfeiture fee, but not both.
Part 3 – State Litigation Tax

Pay TN Department of Revenue
Due Date – 15th of each month

However, the state law has a “grace period” of sorts. Litigation taxes will be considered delinquent if not paid within 45 days.

T.C.A. § 67-4-206

Be sure to pay these taxes.

Any fees will be considered the debt of the clerk and the clerk’s official bondsman will be liable for these amounts – T.C.A. § 16-18-305(d)
Part 4 – Local Litigation Tax

T.C.A. § 16-18-305(c) – A city can add another local litigation tax on top of the existing State Litigation Tax and keep that money.

Additional local tax on litigation up to $13.75.

Must be passed by ordinance by your city.

Only collect when a conviction occurs, just like the state litigation tax.

Does your city have a local litigation tax?
Section 1.
In all cases heard and determined by him or her, the city judge shall impose court costs in the amount of $__________. One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. In addition, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents ($13.75) in all cases in which the state litigation tax is levied.

Section 2. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it.
Part 5 – E-citation fee

If a city wishes to implement an electronic citation program, the State permits a separate fee to add on to each traffic citation resulting in a conviction to offset the costs of a new program.

TCA § 55-10-207(e)(1) allows a separate $5 per traffic ticket to be added to each violation.

• Traffic tickets only
• Must be passed by city ordinance
• Police keeps $4 and court clerk office keeps $1
• Ordinance automatically “sunsets” (i.e. terminates) after 5 years
• **Cites cannot pass another ordinance for another 5 years. See AG Opinion 21-02**
• Once five years is over, a city can retain the fee by adding that to the court costs, because it would be a “reasonable” expense. Then it can apply to all cases, not just traffic
Module 3 – Reporting to the State

Department of Revenue
• Form PRV 401 – Litigation Taxes
• Form PRV 414 – Litigation Fines and Fees Return

Department of Safety
• Court Action Report
• Report of Fines, Fees, and Costs for Violations of the TN Motor Vehicle Law
Department of Revenue

Form PRV 401

Litigation Taxes Only

TENNESSEE DEPARTMENT OF REVENUE
Litigation Tax Return

PRV 401

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<tr>
<th>Filing Period</th>
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<th>Check If Applicable: Amended return</th>
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Legal Name

Mailing Address

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<th>State</th>
<th>ZIP Code</th>
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Taxpayers should submit their return and payment from Line 29 by visiting the Department’s website at https://mntap.tn.gov/eservices

2. Civil cases in Chancery/Circuit/Probate Courts or General Sessions Courts when exercising State Court jurisdiction [Tenn. Code Ann. §67-4-602(b)] ($23.75) ..........................................................(2)
4. General Sessions Court cases exercising state court jurisdiction except juvenile cases [Tenn. Code Ann. § 67-4-602(b)] ($1) ..........................................................(4)
5. Municipal parking violations [Tenn. Code Ann. § 67-4-602(g)(1)] ($1) ..........................................................(5)
6. Criminal Charges [Tenn. Code Ann. § 67-4-602(a)] ($29.50) ..........................................................(6)
7. Criminal Charges involving cases in Title 55 - Chapter 8 [Tenn. Code Ann. § 67-4-602(a)(1)] ($1) ..........................................................(7)
8. Criminal Charges - victim notification fund [Tenn. Code Ann. § 67-4-602(h)] ($3) ..........................................................(8)
9. Criminal Charges - continuing judicial education [Tenn. Code Ann. § 67-4-602(b)] ($2) ..........................................................(9)
10. Adjustments .....................................................................(10)

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<td>Municipal Courts not exercising General Sessions jurisdiction [Tenn. Code Ann. §16-18-305(a)], or Appellate Courts civil cases [Tenn. Code Ann. §36-4-602(d)] ($13.75)</td>
<td>(1)</td>
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<tr>
<td>2</td>
<td>Civil cases in Chancery/Circuit/Probate Courts or General Sessions Courts when exercising State Court Jurisdiction [Tenn. Code Ann. § 67-4-602(b)] ($23.75)</td>
<td>(2)</td>
</tr>
<tr>
<td>3</td>
<td>Civil cases-General Sessions or Municipal Courts exercising General Sessions Jurisdiction [Tenn. Code Ann. § 67-4-602(c) and Tenn. Code Ann. § 16-18-305(e)] ($17.75)</td>
<td>(3)</td>
</tr>
<tr>
<td>4</td>
<td>General Sessions Court cases exercising state court jurisdiction except juvenile cases [Tenn. Code Ann. § 67-4-602(b)] ($1)</td>
<td>(4)</td>
</tr>
<tr>
<td>5</td>
<td>Municipal parking violations [Tenn. Code Ann. § 67-4-602(g)(1)] ($1)</td>
<td>(5)</td>
</tr>
<tr>
<td>6</td>
<td>Criminal Charges [Tenn. Code Ann. § 67-4-602(a)] ($29.50)</td>
<td>(6)</td>
</tr>
<tr>
<td>7</td>
<td>Criminal Charges Involving cases in Title 55 - Chapter 8 [Tenn. Code Ann. § 67-4-602(g)(1)] ($1)</td>
<td>(7)</td>
</tr>
<tr>
<td>8</td>
<td>Criminal Charges - victim notification fund [Tenn. Code Ann. § 67-4-602(h)(5)] ($3)</td>
<td>(8)</td>
</tr>
<tr>
<td>9</td>
<td>Criminal Charges - continuing Judicial education [Tenn. Code Ann. § 67-4-602(k)(2)] ($2)</td>
<td>(9)</td>
</tr>
<tr>
<td>10</td>
<td>Adjustments</td>
<td>(10)</td>
</tr>
<tr>
<td>11</td>
<td>Delinquent taxpayer penalties and interest under Tenn. Code Ann. § 67-4-206</td>
<td>(11)</td>
</tr>
<tr>
<td>12</td>
<td>Gross tax subtotal (add Lines 1 through 11)</td>
<td>(12)</td>
</tr>
<tr>
<td>13</td>
<td>County Commission - Multiply Line 12 by commission rate <a href="6.75%25">Tenn. Code Ann. 58-21-401(h)(3)</a></td>
<td>(13)</td>
</tr>
<tr>
<td>14</td>
<td>Municipal Commission - Multiply Line 12 by commission rate [Tenn. Code Ann. § 16-18-305(f)] (2.00%)</td>
<td>(14)</td>
</tr>
<tr>
<td>15</td>
<td>Net tax subtotal - Line 12 less either Line 13 or Line 14</td>
<td>(15)</td>
</tr>
<tr>
<td>Line</td>
<td>Description</td>
<td>Value</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>16</td>
<td>CIC offenses against property [Tenn. Code Ann. § 40-24-1107(a)(1)(A)] ($25.50)</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>CIC offenses against persons [Tenn. Code Ann. § 40-24-1107(a)(1)(A)] ($50)</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Child sexual abuse [Tenn. Code Ann. § 40-24-1107(a)(1)(B)] (see instructions) ($500)</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Adjustments and juror or other reimbursements</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Total amount of commissions collected on Lines 16 through 19</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Sex offender surcharges not to exceed $3,000 per case [Tenn. Code Ann. § 39-13-709(b)]</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Sex offender commission (multiply Line 21 by commission rate) (5.00%)</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Collections for old cases as directed by Tenn. Code Ann. § 40-24-105(a) less collection costs</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Total gross tax due (add Lines 12, 16, 17, 18, 19, 21, and 23)</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Total net tax due (add Lines 15, 16, 17, 18, 19, 21, and 22, less Lines 20 and 22)</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Credit memo balance</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Penalty (see instructions)</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Interest (see instructions)</td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Total amount due (if filed timely, subtract Line 26 from Line 25; if filed late, add Lines 24, 27, and 28, subtract Line 26)</td>
<td></td>
</tr>
</tbody>
</table>
Department of Revenue
Form PRV 414
Litigation Fines and Fees

<table>
<thead>
<tr>
<th>Column A Gross Tax</th>
<th>Column B Net Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Forfeited appearance bonds in felony cases (Tenn. Code Ann. § 40-24-107(d))
2. Domestic and aggravated assault fines not in excess of $225 per assault (Tenn. Code Ann. § 39-13-101(b1); 39-13-102(e)(2); 39-13-111(c)(5))
4. Order of protection penalties ($50) (Tenn. Code Ann. § 36-3-610(b))
5. Court appointed attorney's administrative fee (Tenn. Code Ann. § 40-14-103(b)(1))
6b. Veteran's Drug Court fee ($10) (Tenn. Code Ann. § 16-22-109(e)(2))
7a. Alcohol and Drug Addiction Treatment fee (DUI) ($100) (Tenn. Code Ann. § 55-10-407, 413(c))
10. Payments of fines/fees not listed elsewhere on return
11. Refunds of costs, fines, and forfeiture
<table>
<thead>
<tr>
<th></th>
<th>Litigation Fines and Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Refunds of costs, fines, and forfeiture ................................................. (11) ___</td>
</tr>
<tr>
<td>14</td>
<td>Cash Bond Forfeiture ($13.75) [Tenn. Code Ann. § 38-6-103(d)] .................... (14) ___</td>
</tr>
<tr>
<td>15b</td>
<td>Anti-Human Trafficking Fund Law Enforcement Agency ....................................... (15b) ___</td>
</tr>
<tr>
<td>15c</td>
<td>Anti-Human Trafficking Fund District Attorney General Conference .................... (15c) ___</td>
</tr>
</tbody>
</table>

FOR OFFICE USE ONLY
## Litigation Tax vs. Bond Forfeiture Fee

<table>
<thead>
<tr>
<th>Litigation Tax</th>
<th>Bond Forfeiture Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>T.C.A. § 16-18-305(a)</strong></td>
<td><strong>T.C.A. § 38-6-103(d)(1)(A)(iv)</strong></td>
</tr>
<tr>
<td>• $13.75</td>
<td>• $13.75</td>
</tr>
<tr>
<td>• Department of Revenue</td>
<td>• Department of Revenue</td>
</tr>
<tr>
<td>• Form 401, line 1</td>
<td>• Form 414, Line 14</td>
</tr>
<tr>
<td>• 2% commission for court clerk</td>
<td>• 5% commission for court clerk</td>
</tr>
</tbody>
</table>

Based on conviction in city court, usually after court hearing or guilty plea

When defendant pays cash bond prior to court hearing (without pleading guilty on the ticket), but never shows up to contest the charge, forfeiting the bond.
TN Taxpayer Assistance Portal – file and pay online

Log in to TNTAP

Enter the logon details provided to you during the first full week of May, and click Logon.
TNTAP does the math for you and...

The Return

- To file the return, enter the information line-by-line.
- As information is entered in the white fields, TNTAP calculates the numbers in the gray fields.
You can pay online too.
Department of Safety Reporting

Court Action Reports or sometimes known as Court Disposition Reports (CDRs)

Methods to Report
• TDOSHS CDR website
• TNCIS (run by the AOC)
• 3rd party court software company
• Paper via mail
• Fax
<table>
<thead>
<tr>
<th>Type or Print Legibly in Black Ink. Do Not Write in Shaded Areas.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: First Middle Last</td>
</tr>
<tr>
<td>Address (No., Street, Apt., Or Rl. And Box No.) City State Zip Code</td>
</tr>
<tr>
<td>Driver License Number Class State Lic. Plate No. State Yr. Vin Yr. Vin Make Vin Model</td>
</tr>
<tr>
<td>Assigned No., History Only Commercial Motor Veh. Yes No Hazardous Materials Yes No Accident Yes No Coll Yes No</td>
</tr>
<tr>
<td>Vio. Date County Code Street/Majorway Agency</td>
</tr>
<tr>
<td>Citation No. Description of Violation Speed Mph Zone Offense 1st 2nd 3rd</td>
</tr>
<tr>
<td>Was Ignition Interlock Device Ordered by Court? Yes No Restriction Period of Device From: To:</td>
</tr>
<tr>
<td>Hearing Date Court Docket No. Case Disposition: (Check Only The One Appropriate Box) Bad Setting Of Device Other Court Ordered Restrictions</td>
</tr>
<tr>
<td>Traffic School Yes No Date Completed</td>
</tr>
<tr>
<td>Remarks</td>
</tr>
<tr>
<td>Fine Costs Other Total Assessed Paid In Full Yes No Wave/Indigent Yes No</td>
</tr>
<tr>
<td>Revoked/Suspend Begin Eligible</td>
</tr>
</tbody>
</table>

Municipal Technical Advisory Service
INSTITUTE for PUBLIC SERVICE
Safety – TDOSHS Court Disposition Report website

https://courtreport.safety.tn.gov/

Court Disposition Reporting

Email: 
Password: 

Logon

Frequently Asked Questions!
Print Access Forms!
Important Dates for Reporting Convictions

**Commercial Driver’s License (CDL) convictions** – 5 days

**For regular driver’s licenses convictions** – 30 days

TCA 55-50-409

TCA 55-10-306
The Mythical “Six Month Rule”

Myth – All ticket convictions must be submitted to the DOS within six months of the issue date otherwise the DOS won’t do anything with it.

Fact – The “Six Month Rule” only applies with Failures to Appear (FTA). The DOS will only suspend a person’s license for a FTA if the court submits the FTA within six months of the issuance of the ticket. TCA 55-50-502(a)(1)(I).

Safety will still process convictions submitted after six months like normal and assess points on licenses. The only difference is they won’t suspend a license for FTA if the FTA is submitted six months after the ticket was issued.
Safety – Court Action Reports

Five disposition options:

1. Guilty as charged
2. Reduced – Guilty of __________
3. Dismissed
4. Failed to Appear – Initiate Suspension
5. Failed to Pay Fine/Costs After Conviction – Initiate Suspension
## Report of Fines, Fees, and Cost for Violations of the Tennessee Motor Vehicle Laws:

1. Seat Belt Law
2. Child Restraint Law
3. No Driver’s License in Possession
4. (GS only) Impaired Drivers Fund for DUI offenses

Money due 15th of each month
QUESTION: SO WHO GETS THE FINE MONEY?

- Child Restraints
- Seatbelts
- Hands Free Law
- Impaired Driver’s Trust (GS only)
- Traumatic Brain Injury Trust (GS only)
- Driver’s License law
- Financial Responsibility
Typical Lawyer Answer:

It depends
Remember our **City of LaVergne** case?

**City of La Vergne v. LeQuire, 2016 WL 6124117** (short opinion, only 6 pages, but very critical)

Here’s the general gist of the case as it pertains to city courts:

- Cities can adopt Class C Misdemeanors into their city ordinances.
- When adopting these criminal offenses as ordinances these misdemeanors (magically) convert to civil offenses.
- Cities have jurisdiction to hear these offenses in city courts if the ticket cites the city ordinance, not just the TCA criminal statute. If only TCA criminal statute is cited on the ticket, a city court doesn’t have jurisdiction.
- TCA = criminal violation (some possibility of jail) vs. City Ordinance = civil violation (zero possibility of jail)
General Framework for motor vehicle laws in cities

Part 1: Applicable State Laws

• **Municipal Court Reform Act - TCA 16-18-302(a)(2)** permits cities to have jurisdiction for Class C Misdemeanors that mirror, substantially duplicate, or incorporate by cross reference language of a state criminal statute.

• **TCA 55-10-307(a) covers motor vehicle laws.** In this section, it reads:
  - (a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 -- 55-10-310, 55-12-139, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, and 55-10-312, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the listed sections. All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.
Side note – Statutory Citations Format

TCA = Tennessee Code Annotated

TCA 55 – 8 - 152 (Speeding)
General Framework for motor vehicle laws in cities

Part 2: Applicable City Ordinances

• Cities must adopt “Class C Misdemeanors that mirror, substantially duplicate, or incorporate by cross reference language of a state criminal statute” into its own Code of Ordinances

• Example: Adoption of the Rules of the Road Ordinance

Sample Rules of the Road Ordinance

Side note - This is not a Rules of the Road Ordinance

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Certain misdemeanors under state law. All offenses against the State of Tennessee which are defined by state law to be misdemeanors punishable by a fine of fifty dollars ($50.00) or less and confinement for a period of thirty (30) days or less are hereby designated and declared to be violations of the laws and ordinances of the City of Lebanon and any such violation is also a violation of this section. (1968 code, § 10-101; as replaced by Ord. #05-2725, April 2005)

This does not “mirror, substantially duplicate, or incorporate by cross reference language of a state criminal statute” as required by the MCRA
Part 3: Cities can keep it unless the state statute specifies otherwise

• MTAS believes that if a state statute is a Class C Misdemeanor, and
• The applicable State statute does not directly detail that it gets the money,
• Then the cities have the authority to keep it.

Please consult with your city attorney for a formal attorney-client opinion though. (Obligatory Disclaimer).
General Sessions Jurisdiction

Municipal Courts who exercise general sessions jurisdiction can hear the same offenses as your local county court’s general sessions jurisdictions.

- Class A Misdemeanors
- Class B Misdemeanors
- Class C Misdemeanors

**Note:** While a city can adopt a Class C Misdemeanor as a city ordinance violation, the MCRA does not allow cities to adopt Class A or B Misdemeanors as city ordinance violations, even if you have GS jurisdiction.

**Meaning:** While a municipal court with GS jurisdiction can hear a Class A or B Misdemeanor, that will still be a state criminal charge with any additional fines going to the state as a county court would. Class C Misdemeanors adopted as city ordinances can stay with the city though.
March 2021 Memo

Remember this?

To: Court Clerks
From: Fiscal Services, Tennessee Department of Safety and Homeland
Date: March 25, 2021
Subject: Fines Payable to the Department of Safety and Homeland Security

The Department of Safety should receive the fines for the following violations:

TCA 55-8-199 Hands Free Law (paid to Safety per TCA 55-10-303)
TCA 55-9-602 Child Passenger Restraint Law (paid to Safety per TCA 55-10-303)
TCA 55-9-603 Safety Belt Law (paid to Safety per TCA 55-10-303)
TCA 55-10-413(b) Impaired Drivers Trust Fund (established in TCA 9-4-206) – in addition to all other costs, taxes, and fees for a violation of TCA 55-10-401, a $5 fee for DUI*
TCA 55-12-139 Financial Responsibility Law (paid to Safety per TCA 55-10-303)
TCA 55-50-301 Uniform Classified and Commercial Driver License Act (paid to Safety per TCA 55-50-304)

Traumatic Brain Injury Trust Fund (TBIF) (established in TCA 68-55-401). The following fines are in addition to any other fines imposed by the noted TCA sections.

TCA 68-55-301 $5 for driving a motor vehicle in excess of ten (10) mph over the posted speed limit (TCA Title 55, Chapter 8)
TCA 68-55-302 $30 for reckless driving of a motor vehicle (TCA 55-10-205)
TCA 68-55-303 $15 for driving a motor vehicle while the driver license is canceled, revoked, or suspended (TCA Title 55, Chapter 30, Parts 5 and 6)
TCA 68-55-304 $15 for DUI (TCA 55-10-403, for violations of TCA 55-10-401)
TCA 68-55-305 $15 for accidents involving death or personal injury (TCA 55-10-101)
TCA 68-55-306 $25 for drag racing (TCA Title 55, Chapter 10, Part 6)
TCA 55-10-303 – What the memo says is its authority

TCA 55-8-199 Hands Free Law (paid to Safety per TCA 55-10-303)

Here is what TCA 55-10-303(a) says:

(a) All fines, penalties and forfeitures of bonds imposed or collected under any of the provisions of chapters 8 and 9 of this title, parts 1-5 of this chapter and § 55-12-139, except such as may be imposed or collected under § 55-10-401, shall, within fifteen (15) days following the last day of the month in which the fines, penalties and forfeitures of bond were received, be paid to the commissioner of safety, with a statement accompanying the same, setting forth the action or proceeding in which the moneys were collected, the name and residence of the defendant, the nature of the offense and fines, penalties, forfeitures or sentence, if any, imposed.

Last updated on January 1, 2002
But Back to 55-10-307(a)

TCA 55-10-307(a) covers motor vehicle laws. In this section, it reads:

(a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 -- 55-10-310, 55-12-139, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, and 55-10-312, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the listed sections. All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.

Last updated in May 2010
So with that said......

When does the Department of Safety get the money?
Safety: Child Restraint and Seatbelt

TCA 55-9-602 – Child Restraint Systems

• If first offense, may attend approved class to educate hazards of not properly transporting children in cars. A fee may be charged.
  • $50 fine issued to driver/guardian
  • Collect court costs and lit. taxes (ages birth – 8)
  • No litigation tax, no court costs (ages 9-12)
  • State gets the fine money
  • Citation and penalties differ depending on age of kid

TCA 55-9-603 – Seat Belts

• The fine for the first offense is $30 for adult seat belt violators and 16-17-year-old offenders; $50 for second or more offenders
  • Municipal court clerk keeps the remaining $5 of the $30 fine.
  • $25 is submitted to Safety
  • Under the statute, the fine for a second or subsequent offense is increased to $55 (but $50 for city courts only because of the $50 cap)
**TCA 55-9-602**

Child Restraint Law

**SAFETY BELT LAW: CHILD RESTRAINTS**

- **Infant to 8 years old** (Shorter than 4'9"")
  - To Driver/Guardian (for each child in violation)
  - $50 to Dept. of Safety
  - Collect regular court cost (Cities keep)
  - Collect litigation tax (Remit to Dept. of Revenue)

- **9-12 years old** (4'9" or more)
  - To Driver/Guardian (One citation per vehicle)
  - $50 to Dept. of Safety
  - No court cost
  - No litigation tax
TCA 55-9-603

Seat Belt Law

Drivers ages 16 and up

S A F E T Y  B E L T  L A W :  A D U L T S

16 to 17 year olds

To Violator
(Even if a minor)

$30
$25 to Dept. of Safety
$5 retained by court clerk

No court cost
No litigation tax

18 & older

To Violator

First offense=$30
$25 to Dept. of Safety
$5 retained by court clerk

Subsequent offense=$50
$45 to Dept. of Safety
$5 retained by court clerk

No court costs
No litigation tax
Hands Free Law—TCA 55-8-199

Class C Misdemeanor

TCA 55-8-199 is included in the list of offenses that can be incorporated into the city code.

MTAS believes this fine can stay with the cities.

- First time offenders – max fine of $50 (depending on your city’s code if adopted)
- Third or subsequent offenders - $100
- Violation results in an accident - $100
- TDOT work zone, construction work zone, or school zone - $200
  - But, these fines are capped at $50 if ticket is written for the city ordinance

Court Costs limited to $10

- Still forward the $1 MTE fee from the court costs

For first time offenders, driver may attend and complete driver education courts (i.e. traffic school).

- Permissible by the judge’s decision
Impaired drivers trust fund – Traumatic Brain Injury Trust Fund (GS Only)

Impaired Drivers Trust Fund

General Sessions Court Only
• TCA 55-10-413(b)
• $5 fee for all DUI convictions
• Forwarded to Department of Safety
• Deposited into the “Impaired Drivers Trust Fund”

Traumatic Brain Injury Fund

General Sessions Court Only - Safety gets these fines
• TCA 68-55-401
• Speeding in excess of 10 mph - $5 (only if speeding is cited under the TCA. If cited under city ordinances do not collect this $5 fine because it’s not a state violation)
• Reckless Driving - $30
• Driving when license is cancelled, revoked, suspended - $15
• DUI - $15 (Courts collect total of $20 for DUI. $15 for TBIF and $5 for Impaired Drivers)
• Accidents involving death or personal injury - $15
• Drag racing - $25
Drivers License issues

Driving without license in possession
• If a person has a valid license, but does not have it in his or her possession,
• City court has jurisdiction
• Class C Misdemeanor –fine goes to Safety
• TCA 55-50-351
• Court Costs stay with the city since heard in city court

Driving on suspended, cancelled or revoked
• If license suspended, revoked, cancelled, or never obtained a license
• Cannot hear in traditional city court
• Class A and B Misdemeanors
• GS jurisdiction courts can hear this
• Fine goes to the State
Drivers License Issues

THIS KID WAS BORN WITH A SUSPENDED DRIVER’S LICENSE

@comfysweaters
Financial Responsibility – TCA 55-12-139

Insurance Law

• Class C Misdemeanor

• Can be adopted as city offense into city code

• Can be heard in city courts

• MTAS believes city has the authority to keep the fine money if adopted into city code and cite city ordinance

• Statute says max fine $300, but if it’s a city violation, max fine of $50

• Cannot charge this offense by itself. Must charge with other moving vehicle violation and then add this on.
  • “At the time a driver of a motor vehicle is charged with any violation under…..” TCA 55-12-139(b)(1)(A)
Financial Responsibility – TCA 55-12-139

Had valid insurance when cited

- Had valid insurance, but could not produce a proof of insurance card or mobile device display
- Returns to court with proof of insurance showing coverage on the cited date
- **First citation:** Court must dismiss the citation
- **Second or subsequent citation:** Court may dismiss
  - TCA 55-12-139(e)(1)
- If dismissed the first time, no fine, no court costs, no taxes, no fees

Did not have valid insurance when cited

- If you did not have valid insurance at the time when cited
- No dismissal is allowed – TCA 55-12-139(e)(2)
- Will be found guilty and reported to Department of Safety
- Fine determined by city’s code (if adopted as city violation), max fine $50
Expungements & city courts

Expungement is a court-ordered process where the legal record of some criminal cases can be erased in the eyes of the law. In Tennessee, only certain criminal records can be expunged. Some cases can be expunged without any fees.

Exclusively for criminal cases

Expungements are governed by TCA 40-32-101
Expungement in city courts

**Traditional**

- Civil court only, so your court does not have any criminal convictions
- Moving and nonmoving traffic offenses are not considered an “offense” under TCA 40-32-101(g)
- Cannot initiate any type of expungement in this court
- At most, may need to pull record of conviction where it is not searchable under a public records request, but keep the record under TN Records Retentions.

**General Sessions**

- May be able to initiate request in your court.
- File a petition with the court.
- Must have paid full fines, restitution, and costs if previously convicted.
- Some misdemeanors and some felonies are eligible for expungement.
Modules

1. Municipal Court Reform Act
2. Fees, Court Costs, and Taxes
3. Reporting to the State
4. Frequent Issues
5. Updates for 2021
Two Important Definitions

Failure to Appear (FTA)

• Never appearing on a required court date.
• Results in a Default Judgment and subsequent conviction.
• DOS can suspend your license.
• TCA 55-50-502(a)(1)(I)

Failure to Pay (FTP)

• Did show up to court.
• Convicted of an offense and must pay a fine/costs/taxes.
• Enter into a payment plan
• Does not pay.
• DOS can suspend your license.
• TCA 55-50-502(j)

In both instances, the Defendant is convicted and now owes money. If he can’t pay in full, he is eligible for a payment plan and must comply with the payment plan, otherwise he could lose his license.
General Rules – Courts & Payment Plans

**Traditional Court – Civil Only**

If a person has a moving vehicle violation in a traditional city court, he must pay the fine, or get on a payment plan.

These offenses are the Class C misdemeanors adopted into your city’s code of ordinances

If you default on the payment plan, the Department of Safety can suspend the driver’s license.

- TCA 55-50-502(j)

**General Sessions Court – Civil and Criminal**

If convicted of a Class A or B misdemeanor criminal charge (not just moving vehicle charges, so it could include drugs, DUI, assault) you need to pay the fines/fees/costs within one year. If not, you must enter into a payment plan. If you later default, you may lose your license.

- See TCA 40-24-105(b)(1) – criminal courts

Can also hear Class C moving vehicle violations (Rules of the Road) just like a traditional courts as city ordinance (civil) violations. If defendant doesn’t pay these fines, license can also get suspended.

- See TCA 55-50-502(j) – civil offenses like traffic
Payment Plans – TCA 55-50-502(j)

Payment Plans in General

1. **Required** – Payment plans will be required for every licensee convicted of a driving offense and fails to pay the fines and costs on the disposition date, i.e. court date.
   - Person will discuss payment plan options with the judge if in a hearing. Make payments in accordance with the plan.
   - Subject to Payment Plan until fully paid or if outstanding costs are waived by the court.

2. Maintain Driving Privileges – While on a payment plan, a person will maintain driving privileges only if he or she is otherwise eligible for a driver’s license.
Starting the Payment Plan

Payment plans must be reasonable and based on the person’s ability to pay.

- This hearing can occur at the same time as the original appearance, immediately following the conviction.
- Judge discusses finances with defendant, may require defendant to complete affidavit of indigency.
- Judge orders the plan. Hopefully, the judge, the defendant, and the court clerk all sign the plan.

Court Clerk is required to inform the person that:

1. Failure to timely make payments as ordered by the court results in suspension of the person’s license and a restricted license will be issued.
2. Any default on the payment plan, while on a restricted license, would result in revoking the restricted license and driving privileges.
Modifications to a Payment Plan

Modifications should be granted when:
- Person’s financial circumstances change or
- Upon good cause shown.

Court clerks have the authority to grant modifications.

If modification request was denied by the deputy clerk, the person may appeal to the chief clerk.

If the chief clerk denies the request, the person may petition the court for a hearing.
New information time!

We’ve all seen this from the Department of Safety right?

August 2021
New Information Time!

And this memorandum on changes and methods to report?

August 2021

Public Chapter 438
T.C.A. 55-50-502(j)
Effective 07/01/2019, Implemented 07/01/2021

What’s changed

➢ Failure to Pay
  ○ Pursuant to T.C.A. 55-50-502(j), the court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.
  ○ Notices of Failure to Pay must specify that the driver defaulted on a payment plan compliant with T.C.A. 55-50-502(j). Notices that do not specify default on a payment plan will not be processed.
  ○ Courts may report default on a payment plan electronically with their regular files. Previously, all notices of default on a payment plan were required to be submitted on paper.
  ○ TDOSHS will notify drivers of proposed suspension allowing 30 days to re-establish the payment plan or satisfy the court in full.

➢ Payment Plan Compliance
  ○ Compliance must specify whether the citation has been satisfied in full or is on a payment plan.
  ○ Courts may report compliance on a payment plan electronically with their regular files. Previously, all notices that a citation is on a payment plan were required to be submitted on paper.

➢ Restricted License
  ○ Drivers who comply with department notice of proposed suspension within 30 days by either re-establishing the payment plan or satisfying the court in full and submit compliance to the department will not be suspended.
  ○ Drivers who do not comply with the department notice of proposed suspension within 30 days will be suspended.
    ▪ Drivers who have satisfied the court in full after suspension may reinstate from the suspension by paying any applicable reinstatement and issuance fees if otherwise eligible.
    ▪ Drivers who have re-established a court payment plan after suspension are also required to obtain a court order for a restricted license and must apply for a restricted license at a driver service center. The restricted license will be required until the court is satisfied in full.
Why do cities do different things when reporting an FTA or FTP?

- The Department of Safety does not have a list of required steps a city must take before submitting an FTA or an FTP for a license suspension.

- **Failure to Appear** – some cities reset the court date for the next month and send out a courtesy letter. Others just report it the next day.

- **Failure to Pay** – Some cities give a courtesy letter informing them of a default with a new deadline date. Others just submitted the FTP to the Department of Safety.

- So it’s up to each city to decide the steps it wants to take, and that’s ok.
Types of Payment Plans

TCA 40-24-105 (criminal courts) and TCA 55-50-502 (civil courts) do not specify what a payment plan must look like.

Two general types:
  1. Set dollar amount per month.
  2. Extension of time, i.e., pay the entire amount in 90 days.

Also, the State does not have a standard form for a payment plan, so you can create whatever form you like.
Does a city need to inform DOS of every payment plan?

The Department of Safety does not need to know that a person has entered into a payment plan.

They only need to know when the person has defaulted on the payment plan to suspend the driver’s license.

Exception: If a person has a suspended license prior to 2018, and they now enter into a payment plan to get their license reinstated, the DOS does want to know that person has entered a payment plan, even if they are compliant.
Methods to Report a FTA or FTP for suspension

- TN Court Information System (TnCIS) – Local Government Corp. product – This method is fully integrated and ready to use.

- 3rd Party Software vendors – But you must check with your vendor to make sure they are integrated with the DOS’s systems. Don’t know if yours is? Call your vendor and then email Tiffanie Morgan at tiffanie.morgan@tn.gov to find out.

- Fax the Department of Safety – 615-401-6786

- Mail paper Court Action Reports to “Dispositions, PO Box 945, Nashville, TN 37202-0945”
Methods to Report a FTA or FTP for suspension

Major Note!

• You cannot use the DOS’s online portal to report FTA or FTPs anymore.

• Also, you cannot use it to report compliance when people come back in and make a payment to get their license reinstated.

• But you can still use it to report everything else like normal (speeding, insurance, seatbelts, etc.).

• If this is your sole method of reporting, you will have to do fax or paper mailing for now.
Reminder - If you manually report by fax or mail, use the Court Action Report form.
Specify Default of Payment Plan when Reporting

On the current Court Action Report form, it only says this:

If you only check that box and nothing else, the DOS will not process your request.

You will now need to specify in the narrative box (bottom right of the form) that the request to suspend is from a Failure to Pay - default of a payment plan. Add a sentence saying “Payment plan entered on Day X, and default occurred on Day Y.”
The most painful slide of the day  
(please don’t hate me)

In the Department of Safety letter dated August 2, 2021, it says this about reporting defaults on payment plans:

If a suspension request for default on a traffic citation payment plan was submitted prior to July 1, 2021, it will need to be resubmitted in order to be processed in accordance with the new payment plans laws set out in T.C.A. §55-50-502(j). Additionally, the Department implemented

Sooooo, does that mean if I submitted a Failure to Pay request prior to July 1, 2021, and I did everything the statute told me to do, I have to do it again?
Yes. Yes, it does.

The Department of Safety will not process any previously submitted FTP requests from 2018-July 2021, regardless if you strictly complied with the payment plan statute.

They said that there are too many possibilities of a court submitting a FTP request in the past few years, then the defendant later paying the citation at the local court level, but that court inadvertently not reporting that to the Department of Safety.

There would be too great of a risk where Safety would suspend someone’s license who did in fact pay all the fines, resulting in Safety being sued again.
Should I resubmit every FTP again?

Cities can choose if it is worth their time and resources to resubmit these defaults on payment plans.

A city does not have to report these defaults on payment plans to the Department of Safety unless they are seeking suspensions of drivers’ licenses as motivating tools to make them pay.

The defendant still owes the money regardless.

You can choose to use a collections agency if that is easier or more effective and not use the Department of Safety at all.
Does the DOS need to know when a payment is made?

**When not to notify Department of Safety when a payment is made.**

- If a defendant is making timely payments and things are going well, the DOS does not need to know that.
- Keep on going and hope they make all their payments.

**When you do notify Department of Safety of a payment made.**

- If a person defaults and then makes a payment to come back into compliance to avoid being suspended or to get the license reinstated, you report that he paid.
- This allows the DOS’s software system to be updated showing compliance when the person goes to a reinstatement center to avoid suspension or apply for a restricted license.
- Give Defendant a written certification that compliance reestablished for them to take to reinstatement center.
- Notify DOS when they pay off the entire amount and payment plan is over.
Failing to comply – first time

Court clerk notifies the Department of Safety of failure to comply with the plan

Department of Safety sends written notice informing person of pending license suspension

DOS notice instructs the person to contact the court clerk within 30 days (from date of notice) to reestablish compliance with the payment plan or demonstrate compliance

Once compliance is reestablished or demonstrated, the court clerk shall issue a receipt or other documentation

Person presents this information to the Department of Safety before the 30 days period expires
What compliance documentation do you provide the defendant?

TCA 55-50-502(j)(4)(C)(iii) says:

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(4)(C)(ii), then the department shall not suspend the person's license.

There is no standard form the State wants us to use.

This can be a two-sentence form letter on city letterhead that simply says,

“Person X is on a payment plan and made the appropriate payment of $______ on Day Y and is now compliant with the court ordered payment plan.”

Give that to the Defendant and report the compliance to the Department of Safety using the same methods you used to report the default on the payment plan (electronic, fax, or mail).
License suspension and restricted license

License Suspension

1. Person fails to reestablish or demonstrate compliance with payment plan.
2. Person fails to present the receipt or other documentation to the Department of Safety by the expiration of the 30 day rule.
3. Once license is suspended, the person cannot legally drive until he obtains a restricted license.

Restricted License

After license suspended, the person may apply for a restricted license. RL valid only for traveling for the following:

1. Employment
2. School
3. Religious worship
4. Participation in a recovery court
5. Serious illness of person or immediate family member

Court order must state the necessary times and places of permissible operation of vehicle. Must still comply with payment plan.
New Form from DOS – Order for Restricted License.

Department of Safety provided all courts with a standard form to use for Orders for Restricted Licenses when defaulting on a payment plan.

The judge will complete these forms when a defendant makes a payment and applies for a restricted license. The defendant will then take this form to the Reinstatement Center.

They gave us two forms:
- Civil cases (TCA 55-50-502)
- Criminal Cases (TCA 40-24-105)
# Failing to Comply – Second Time

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
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<tbody>
<tr>
<td>1.</td>
<td>Same process for notifying the Department of Safety and reestablishing or demonstrating compliance.</td>
</tr>
<tr>
<td>2.</td>
<td>Person will be notified that the restricted license will be revoked.</td>
</tr>
<tr>
<td>3.</td>
<td>The license will be revoked for at least 6 months. Revocation occurs when a person fails to comply with the payment plan or present a receipt or other documentation to the Department of Safety before the 30 day period expires.</td>
</tr>
<tr>
<td>4.</td>
<td>Even if license is revoked, the person should still be actively participating in the installment plan.</td>
</tr>
<tr>
<td>5.</td>
<td>After 6 months, may apply for reissued restricted license.</td>
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</table>
Clerk Questions to Ask

A person, with revoked license, may apply to the court clerk for certification to be eligible to receive a reissued restricted license.

Two questions to ask before granting certification:

1. Did the person wait 6 months before applying for the reissued license?
2. Is the person actively participating in a payment plan?
State requirements to obtain reissued restricted license

- Same geographical and time restrictions apply for a reissued restricted license.

- The person should submit the court clerk’s certification and pay the $65 application fee to the Department of Safety.

- The certification and fee should be presented together, within 10 days after the certification is issued.

- A copy of the certification may serve in lieu of a driver’s license until the reissued restricted license is issued.
For license suspensions before July 1, 2019

A licensee may apply for an order reinstating his or her driver’s license upon entering a payment plan with the court clerk (i.e. the court with jurisdiction over the offense).

A certified copy of the court’s order may be presented to the Department of Safety. A driver’s license will be reissued, if the person is otherwise eligible for a driver’s license. There is no fee for the license.

Only applies for licenses suspended under TCA 55-50-502(a)(1)(H). Does not include licenses suspended from criminal court proceedings or fines.
Payment Plans for Criminal Convictions

- Applicable for concurrent general sessions jurisdiction courts only.
- TCA 40-24-105 – A payment plan is required for any person who holds a TN driver’s license and fails to pay all outstanding litigation taxes, court costs, and fines within one year of completing the sentence.
- The payment plan applies until the person fully pays the court judgment or the court waives any outstanding taxes, costs or fines.
- Process for installment plan is the same as TCA 55-50-502.
- Courts have resumed suspending licenses for nonpayment for these criminal matters starting September 1, 2020.
Indigency Determinations

The court shall offer the person an opportunity to submit proof of inability to pay taxes, fines, or court costs.

An indigent person is defined as “any person who does not possess sufficient means to pay reasonable compensation for the services of a competent attorney.” TCA 40-14-201(1)

Uniform Civil Affidavit of Indigency Form available on the TN Supreme Court website

http://www.tncourts.gov/sites/default/files/docs/uniformaffidavitofindigency.pdf
Questions?

Great...but it wouldn’t be a Foundations Class without this...
John Eskew – Municipal Court Specialist

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