



# TN MUNICIPAL JUDGES CONFERENCE

Spring 2023

## Howdy!

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# Nuts and Bolts of Municipal Courts

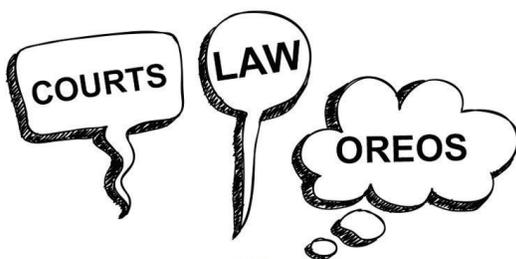
That's just a working title for the presentation.

Alternative titles include:



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

## Alternate Title #1



Stuff John's  
Researched in the  
Past Year



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# Alternate Title #2 – Jeopardy! Category

## Municipal Courts Potpourri



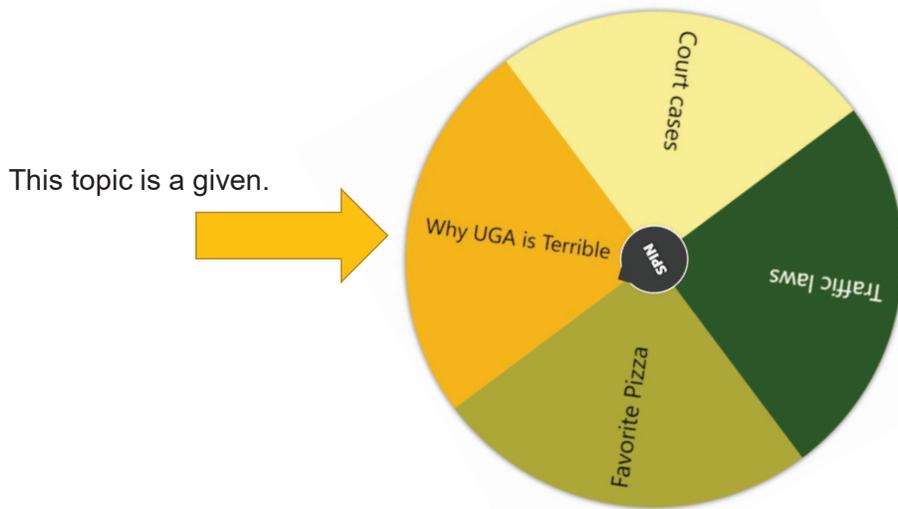
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Is this how you feel sometimes  
when you leave court?



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# Alternative Title #3 - Wheel of Discussions



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## Let's start off easy...Who can issue citations?

### TCA 7-63-101 – Traffic Citations in Lieu of Arrest

- (1) Law enforcement officer;
- (2) Member of the fire department or building department who is designated as a special police officer of the municipality; or
- (3) Transit inspector employed by a public transportation system or transit authority organized pursuant to chapter 56, part 1 of this title;

The officer or inspector may issue, in lieu of arresting the offender and having a warrant issued for the offense, a citation or complaint for such offense. A copy of such citation, which shall contain the offense charged and the time and place when such offender is to appear in court, shall be given to the offender.



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# Signature required



TCA 7-63-102 – Agreements to Appear; Signature

- In order to prevent the offender's arrest and the issuance of the warrant against the offender, the offender must sign an agreement to appear at the time and place indicated, and to waive the issuance and service of a warrant upon the offender.

**What if they refuse to sign?**



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# Then they get arrested

- TCA 7-63-104 - In the event the offender refuses to sign the agreement to appear in court and to waive the issuance and service upon the offender of a warrant, **then it shall be the duty of the officer, in whose presence the offense is committed, forthwith to place the offender under arrest and take the offender before the proper authority, procure a warrant, serve the warrant upon the offender and book the offender as in other cases of violations.** The authority issuing the warrant shall take bail from the accused for appearance in court for trial, or in lieu of bail, commit the offender to jail.



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# What about ordinance violations?

- TCA 7-63-201 - Notwithstanding § 7-63-101, any municipal, metropolitan or city government **may designate by ordinance or resolution certain municipal enforcement officers in the areas of sanitation, litter control, and animal control** who may not arrest or issue citations in lieu of arrests pursuant to part 1 of this chapter, but who, upon witnessing a violation of any ordinance, law or regulation of that municipal, metropolitan or city government, may issue an ordinance summons, leaving a copy with the offender, showing the offense charged and the time and place when such offender is to appear in court.



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## Example of Terrible Sanitation, Litter, and Animal Control:



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# What if they also refuse to sign?

TCA 7-63-203 - In the event the offender refuses to sign the ordinance summons agreement to appear in court, the municipal enforcement officer in whose presence the violation is committed may have a summons issued by the clerk of the municipal, metropolitan, or city court, or the municipal enforcement officer **may seek the assistance of a police or peace officer to witness the violation, who may issue a citation in lieu of arrest for the violation or make arrest for failure to sign the citation in lieu of arrest, as provided in § 7-63-104.**



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# Red Light Cameras – TCA 55-8-198



Technically, these are “Unmanned Traffic Enforcement Cameras,” so the scope of violations include:

- Red Light violations
- Speeding violations
- Can be unmanned police vehicles with cameras in them



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## Unmanned Traffic Enforcement Cameras – TCA 55-8-198

- Non-moving violation – So no points on your license
- \$50 fine max.
- Only POST-certified or state commissioned law enforcement can review footage and issue tickets.
- Tickets mailed to vehicle's registered owner; owner has 30 days to pay once receive the notice of violation.
- Notice shall state
  - **Fine amount**
  - **Any additional fees or court costs if fine not paid timely or if citation is contested and found guilty of offense in court**



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## Unmanned Traffic Enforcement Cameras – TCA 55-8-198

If pay ticket within 30 days of receipt of notice, max fine of \$50

**If not pay timely, “additional fees or court costs may be assessed.” – TCA 55-8-198(b)(4).**

**If you don't pay but show up to court to contest the charge and are found guilty, then additional fees or court costs may be assessed. – TCA 55-8-198(b)(5)**



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## Who get the ticket?

- TCA 55-8-198(e)(1) says the registered owner is responsible for payment.
- However, owner is not liable if furnishes the court an affidavit stating the name and address of person or entity that leased, rented, or otherwise had care, custody or control of the motor vehicle at the time of the violation – TCA 55-8-198(e)(2).
- Exceptions if the car or plates were stolen. – TCA 55-8-198(e)(3) and (4).



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## Cameras without a City Police Department?

Can a city without a police department use an unmanned traffic enforcement camera?

Yes, only if the city enters into an agreement with a POST-Certified law enforcement entity to review the violations.



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# Credit Scores and Collections Agencies



Question: Can non-payment of unmanned traffic enforcement camera violations negatively impact your credit score?



Answer: Nope.



In fact, you cannot report anything involving an Unmanned Traffic Enforcement Camera to a credit bureau. See TCA 55-8-198(m)(2).



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# Credit Scores and Collections Agencies

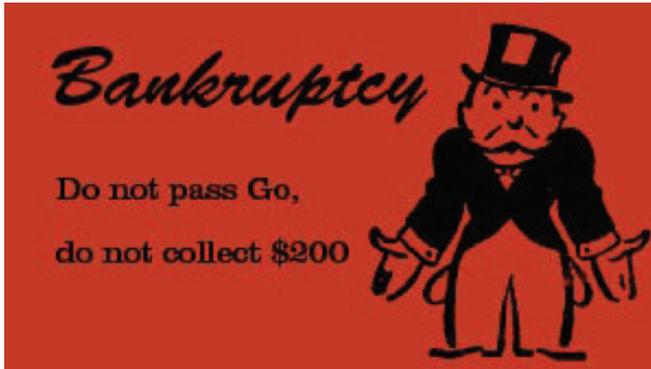
- But can you send unpaid tickets for unmanned traffic violations to a collection agency?
- Probably – But your contract with any collection agency must be explicit that nothing ever gets reported to a credit bureau.
  - Get it in writing;
  - Get an indemnity provision in case the collection agency violates the rule and your city gets sued.



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# Bankruptcy filings by the Defendants

Oddly enough, it's somewhat backwards:



Chapter 7 – Normally completely discharged.

Chapter 13 – Normally not totally discharged, just a debt restructuring



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# Bankruptcy filings by the Defendants

When a Driver's license is suspended for unpaid traffic violations:

Chapter 13 - if a Driver files Chapter 13, and in the list of creditors includes the court where they may have an open Failure to Appear or defaulted Failure to Pay cases, the Department of Safety will use the bankruptcy filing as compliance for the case to assist with reinstatement of the license.

*i.e., they get their license back.*

Chapter 7 – Strictly for accident claims and judgments associated with accidents. Department of Safety does not use Chapter 7 filings for compliance until the case is discharged.

*i.e., they do not get their license back.*



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# General Sessions hearing City Ordinances

Question: Can a county general sessions judge hear violations of municipal ordinances?

Answer: Yes, under TCA 16-15-501(b)(1).



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## TCA 16-15-501(b) – GS Jurisdiction

- (b)(1) Notwithstanding any law to the contrary, **judges of courts of general sessions have jurisdiction to try and dispose of violations of municipal ordinances where the sheriff of the county is acting under the authority of §§ 8-8-201 and 12-9-104;** provided, that a certified copy of the ordinances of the municipality have been filed with the court. **Judges of courts of general sessions shall direct the clerk of the court that all fines collected shall be paid over to the municipality and all court costs collected shall be paid** and accounted for according to [former] § 16-15-703(d) [repealed], to help administer the cost of enforcement; provided, that reasonable costs have been set by ordinance of the municipality.

Tenn. Code Ann. § 16-15-501 (West)



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# TCA 16-15-501(b) – GS Jurisdiction

If a city does not have a city court, it can use this provision to still enforce codes violations to keep the city looking nice.

Requires the city ordinances to be filed with the general sessions court.

Fine and costs money goes to the city, but those costs must be set by city ordinance.



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## Failure to Appear fee?



Question: Can a municipal court impose a fee or additional fine for a Failure to Appear?



Answer: Yes, either as a contempt of court charge, or specific court costs.



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# Failure to Appear – Contempt of Court

Contempt of Court – TCA 55-10-207(c)(1) governs citations.

(c)(1) The traffic citation shall demand the person cited to appear in court at a stated time and it shall state the name and address of the person cited, the name of the issuing officer, and the offense charged. Unless the person cited requests an earlier date, the time specified on the traffic citation to appear shall be as fixed by the arresting officer. **The traffic citation shall give notice to the person cited that failure to appear as ordered is punishable as contempt of court.** The person cited shall signify the acceptance of the traffic citation and the agreement to appear in court as directed by signing the citation. An electronic signature may be used to sign a citation issued electronically and has the same force and effect as a written signature.



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# Failure to Appear – Contempt of Court

Municipal Court Reform Act – TCA 16-18-306 governs contempt in city courts.

Notwithstanding any law to the contrary, contempt of a municipal court shall be punishable by fine in the amount of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.



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## Failure to Appear – specified court cost



TCA 16-18-304 says court cost shall be set by ordinance passed by city council.

If a city can demonstrate extra expenses involved with FTAs as reasonable court costs, then you can itemize this in your court cost ordinance.

Be prepared to defend its reasonableness.



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## Court Costs – Itemized in the Ordinance

Question: Can you itemize various elements of a court costs in the Municipal Code of Ordinance?

Answer: You can, but it may open you up for disputes from defendants.



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# Barrett v. Town of Nolensville (2011 case)

Barrett v. Town of Nolensville, 2011 WL 856923

- Nolensville's wanted to be very transparent with its court costs.
- City code read "in all cases heard or determined by the municipal judge," court costs were \$75.
- Same city code listed the itemized breakdown of these court costs.



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# Barrett v. Town of Nolensville (2011 case)

Court Cost Breakdown:

1. Clerk (includes fee of filing and processing) \$33.50
- 2. Police Officer \$26.50**
3. Data Processing fee \$2.00
4. Citation Issuance fee \$5.00
5. Fee for entering costs on record \$3.00
6. Fee for entering judgment of the court \$3.00
7. Fee for submitting results in motor vehicle violations \$3.00

Total \$75.00



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# Barrett v. Town of Nolensville (2011 case)

Two defendants: Mr. Barrett and Ms. Cheatham

Ms. Cheatham pled guilty before the court date.

She hoped to only pay the \$50 fine and avoid paying court costs (because she would not be coming to court).

However, she was told she must pay the court costs too pursuant to the city ordinance.

Assessed  $\$50 + \$75 = \$125$



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# Barrett v. Town of Nolensville (2011 case)

Mr. Barrett showed up to court to contest the charge.

Mr. Barrett's counsel admitted to the violation in court.

Mr. Barrett assessed the same amount

$\$50 \text{ fine} + \$75 \text{ court costs} = \$125$

Both parties sought review of the municipal courts assessment of costs "claiming that the assessment of costs was a violation of Article VI, Section 14 of the Tennessee Constitution."



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# Barrett v. Town of Nolensville (2011 case)

Court of Appeals ruled the following:

- These court costs are remedial in nature, not punitive, so they are allowed.
- “We are of the opinion that these costs are assessed together by ordinance because they are present in every city court contested case.”
- Both defendants are guilty, but the court costs matter hinges on each individual’s actions.



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# Barrett v. Town of Nolensville (2011 case)

Ms. Cheatham admitted her violation in advance, prior to the hearing date.

The city knew it would not need to call the police officer to testify because she pled guilty earlier.

Therefore, the city would not incur the \$26.50 Police Officer Fee detailed in the court costs ordinance.

Ms. Cheatham’s Total Court Costs were reduced by \$26.50.

**New costs amount = \$75 (court costs) - \$26.50 (police officer fee)**



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# Barrett v. Town of Nolensville (2011 case)

Mr. Barrett admitted his violation, but not prior to the court hearing.

- City had no choice to but have the police officer present in the hearing.
- City incurred the \$26.50 police officer fee and therefore is supported in the full court costs assessment.

“The fact that he ultimately did not have to testify is irrelevant because Mr. Barrett's actions required the officer's presence in the event his testimony was needed. As we have already noted, **the remaining items of court costs would occur in any case irrespective of whether or not the case was contested.**”



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## Recommendation

Be mindful about itemizing or detailing each element of the court costs in the city ordinance.

Determine the financial needs of the court with your finance and court teams, but ultimately the city code should have the final dollar amount of the court costs.

Otherwise, if you add or discontinue a new item (court software, more staff, overtime fees) you have to amend your city ordinance or risk being challenged on it.



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## New Law! – TCA 55-8-207 – Traffic School

- TCA 55-8-207 (Public Chapter 710, effective July 1, 2022).

“A person who is charged with speeding and subsequently convicted and who successfully completes a department-approved defensive driving course within ninety (90) days of the conviction shall have the points charged to the person's driving record for the speeding conviction removed; provided, that five (5) points is the maximum number of points that may be removed from the person's driving record. This section may be applied to only one (1) speeding offense for each driving course completed and only once in a four-year period.”



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## New Law! – TCA 55-8-207 – How it works

- Only applies for speeding charges.
- Convicted in City Court, court clerk reports conviction to Safety
- Safety reviews case, if eligible, safety sends letter to driver.
- Driver is allowed to take a traffic school and have a max of 5 points removed. The conviction still stands on the record though.
- Driver must complete within 90 days of conviction.
- Driver submits completion certificate to Safety (not to you).
- Points are removed from person's record.
- Driver can do this once every 4 calendar years.



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# New Law! – TCA 55-8-207 – How it works

Ideally, Safety does all the heavy lifting in this new law.

If your city offers a traffic school, the person could attend your school without ever having a ticket in your court.

CDL drivers eligible. Not masking because the conviction still stands, just points fall off.



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## Sample Letter Driver's Receive

December 25, 2023

Letter ID: L0247267328  
DLN: 130491383

JULIUS KELVIN CEASAR  
3041 SIDCO DR  
NASHVILLE TN 37204-4505

Dear JULIUS CEASAR

The Department of Safety utilizes a driver point system which is designed to identify and counsel those Tennessee drivers who receive convictions for traffic citations. A review of your driving record reveals that you have been convicted of a speeding violation that meets the criteria to allow you to complete and submit a four (4) hour traffic school course to remove any accumulated points from this conviction up to five points.

A traffic school course must be successfully completed within (90) ninety days from the date of this notice. This may be applied to only one speeding offense for each traffic school course completed and only once in a four-year period.

If you wish to attend a traffic school course, visit the website below to find a list of four (4) hour traffic school courses which have been approved by the Department. You should determine which of the courses is most convenient for you and contact that agency to schedule a date to attend the course. You should make contact as soon as possible, as some programs have waiting lists. It is your responsibility to make arrangements to attend the course and to provide a certificate of completion to this Department.

Access the website through the URL or scan the QR code:

[www.tn.gov/safety/driver-services/~driver-education-courses--traffic-schools-.html](http://www.tn.gov/safety/driver-services/~driver-education-courses--traffic-schools-.html)



Note: Statute says attend traffic school within 90 days from conviction.

This letter says 90 days from receipt of this notice.

It's possible this could cause a discrepancy in the future. We will see.

QR code listing all eligible traffic schools



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# New Case!



City of La Vergne v. Gure – Slip Copy 2022 WL 3709387



Main takeaway: Court of Appeals held that Google Maps data is admissible evidence and not considered hearsay for purposes of determining a driver's speed.



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## City of La Vergne v. Gure

La Vergne Police cited driver for speeding.

La Vergne Police Officer testified of his own observations, radar data, and training to determine if someone is speeding.

Driver denied speeding and wanted to introduce his Google Maps data (he said his speedometer was not working correctly)



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# City of La Vergne v. Gure

City objected to Google Maps data as hearsay.

City court convicted the driver of speeding, driver appealed to Circuit Court.

Driver filed a motion to dismiss the city's amended complaint citing the speeding violation.

Circuit court denied the admissibility of the Google Maps data as hearsay, and also denied the driver's motion to dismiss.



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# City of La Vergne v. Gure



There was a whole bunch of procedural points, but ultimately the Court of Appeals upheld the trial court's conviction of the driver.



But the Court of Appeals determined that the data from Google Maps was not considered hearsay.



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# Hearsay discussion

TN Rule of Evidence 801 governs the definitions of hearsay.

- Hearsay – statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted.
- Declarant – Person who makes a statement
- Statement – (1) oral or written assertion or (2) nonverbal conduct **of a person** if it is intended by the person as an assertion.



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## Court of Appeals held the following:

“Google Maps is not a person. So, it is not a ‘declarant.’”

Google Maps functions as a tool ... the tool does not make a “statement.”

Thus, any readings from Google Maps showing speed is not a “statement.”



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# Google Maps evidence is admissible



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# Court Interpreters

Is a municipal court required to provide interpretation services?

Yes, under both TN Supreme Court Rule 42 and Title VI of the Civil Rights Act of 1964.



© UTG



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# Court Interpreters – Title VI

If your city receives federal money of any kind, it requires you to adhere to Title VI of the Civil Rights Act of 1964.



“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”



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# Court Interpreters



Supreme Court Rule 42 -

Section 1. Scope

This rule, except where noted, shall apply to all courts in this state, **including without limitation, municipal court**, general sessions court, juvenile court, probate court, circuit court, chancery court, criminal court, and appellate court.



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# Court Interpreters – TN Supreme Court Rule 42

## Rule 42 - Section 3. Determining the Need for Interpretation

(a) Appointing an interpreter is a matter of judicial discretion. **It is the responsibility of the court to determine whether a participant in a legal proceeding has a limited ability to understand and communicate in English.** If the court determines that a participant has such limited ability, the court should appoint an interpreter pursuant to this rule.

...

(c) The court shall appoint an interpreter according to the preference listed below:

1. State certified court interpreter;
2. State registered court interpreter;
3. Non-credentialed court interpreter.

(The Rule wants courts to try for #1, but if not, go for #2 or #3.)



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# Court Interpreters – Who pays for interpreters?

Traditional City  
Courts –  
City pays for the  
interpreter

General Sessions  
City Courts –  
AOC pays for the  
interpreter



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# Rule 42 – Costs of Interpreter

## Section 7 – (excerpt)

...When it is necessary for a court to utilize the services of an interpreter to determine if an individual is LEP, **the AOC will compensate the interpreter for this service. The reasonable costs will be compensated pursuant to this section 7 when a general sessions court, or a municipal court exercising general sessions jurisdiction,** or a juvenile, probate, circuit, chancery, criminal, or appellate court, finds, on motion of a party or on the court's own initiative, that a party has limited English proficiency. Reasonable compensation shall be determined by the court in which services are rendered, subject to the limitations in this rule, which limitations are declared to be reasonable.



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# In-Person Interpreters – AOC's website

<https://www.tncourts.gov/programs/court-interpreters/find-court-interpreter>

The screenshot shows the 'Find A Court Interpreter' page on the Tennessee State Courts website. The page features a navigation menu at the top with links for COURTS, PROGRAMS, ADMINISTRATION, FORMS & PUBLICATIONS, BOARDS & COMMISSIONS, and E-FILING. The main content area is titled 'Find A Court Interpreter' and includes a search form with dropdown menus for LANGUAGE, CITY, CREDENTIALS, and AVAILABILITY, and an 'Apply' button. The page also contains text explaining the certification process and providing instructions on how to use the search form.



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# In-Person Interpreters – TN Language Center

<https://tlc.tennessee.edu/interpretation-and-translation/>



**INTERPRETATION**  
or spoken



**TRANSLATION**  
or written



**REQUEST AN INTERPRETER  
OR A TRANSLATION**

## INTERPRETATION AND TRANSLATION

Quality interpretation and translation are more than matters of compliance. Discount services often end up costing organizations more – in time, reputation, bids lost, and lawsuits – because the interpreters, translators, or agencies providing services at such a low cost often don't have the training and experience required to provide high-quality services. Translators are often hired off-shore to be more cost effective for agencies.



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# Telephonic Translation Services



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# Telephonic Translation Services

These services are perfectly acceptable.

Your city's HR office likely already has a language service on contract.

Some languages are not offered by either the AOC or TLC's services, so telephonic may be the only reasonable option.



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# Nolle/ Passing the Case/ Good Behavior

Nolle Prosequi – Latin for “will no longer prosecute.”

Also known as “Nolle”

Case where the **prosecutor** will no longer seek charges in the matter.

“A nolle prosequi is a discharge without acquittal, and can be awarded only by the Attorney General and the court. It being a discharge, it is necessarily a termination of the particular prosecution, although it is not a bar to a subsequent prosecution,…”

Scheibler v. Steinburg, 129 Tenn. 614, 167 S.W. 866, 866 (1914)



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# Nolle/ Passing the Case/ Good Behavior

Traditional Courts – Essentially a dismissal at a later date

General Sessions Court – Can be exactly like a county GS criminal court case



But what does this look like in practice?



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## GS court – “Passing the Case for Good Behavior”

Judge heard several cases. Some Class C Misdemeanor traffic and some Class B misdemeanors (No Driver’s License/Restricted/Suspended and Reckless Driving).

Judge decided the “pass the case for good behavior” if stay out of trouble for the next three months (90 days) and complete traffic school if ordered.

Reset the defendant’s court appearance for three months out.

On Day 89, court clerk checked defendant’s file, and if defendant had paid all court costs/traffic school fees, and did not commit any other offenses, judge entered a dismissal on Day 90.

If defendant committed another offense or did not pay all required costs/fees, judge entered a guilty plea for the original offense.



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# Checking TN DL Portal for driving history

Police officers can check the driver's history through their own system or by using the dispatch.

Can be time consuming for the officers

Some cities do this, while others do not have the time with limited resources and staff.

Probably cannot use NCIC system because traffic offenses are not considered criminal actions/investigations.



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# Checking City's Own Records



Judge says "I'll nolle the case if you don't get any other tickets for six months."



How does the court track this?



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## Option 1

- Have your court clerk or police officers check city's own records of every new ticket to see if any recent violations
- Notate any previous violations on each new ticket
- May be able to check Department of Safety's DL portal.

## Option 2

- Hire a judge that never forgets anything...or
- Hire an elephant
- But be careful what type of elephant you hire....



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## Good Elephant



## Bad Elephant



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# E-services Court Portal



## e-Services Court Portal User Manual

Version 1.0.1

Updated: June 6, 2022



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# E-services Court Portal

Allows a city court clerk to access an individual driver's TN driver's license status and reinstatement requirements across all TN jurisdictions (cities and counties).

You can tell the driver during court, "You have outstanding tickets in cities X, Y, and Z. Get those taken care of and you get your license back."

Enhances customer service from the courts.



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# E-services Court Portal

Instructions in the manual, but generally here are the steps:

1. Contact DOS and they set up a username and temporary password.
2. Complete the Acceptable Use Policy (do and don't stuff)
3. Look up driver's records
4. Not as strict as NCIC, so you can use this in the courtroom.



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# Criminal Trespass – TCA 39-14-405

- Old laws for loitering, prowling, trespassing were repealed by the legislature.
- Many cities adopted these old laws in their code, and they're not unenforceable.
- **Replacement law is a Class C Misdemeanor, which can be adopted into your city code by ordinance.**
- Police can issue citations like normal.
- Heard in city court, so civil offense. Fine, court costs, taxes.
- No possibility of jail in a traditional city court.
- Not dependent on the DA. Shows citizens you're doing all you can.



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# Criminal Court Payment Plans

This is for Municipal Courts with General Sessions jurisdiction

Fun fact: How many municipal courts exercise concurrent GS jurisdiction?

Answer: 24 ½ (one city is winding its down next year)

So the other 250 ½ cities can take a quick nap.



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# Criminal Court Payment Plans

- TCA 40-24-105 – If a person has a criminal conviction and are assessed fines/costs/taxes, the person must pay those or get on a court ordered payment plan.
- If you default on that payment plan you can lose your license, even if the offense was unrelated to a motor vehicle violation.
- Must pay these criminal fines/costs within one year of disposition of the case.



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# Criminal Court Payment Plans

Do you have to wait  
one whole year  
after disposition to  
enter into a  
payment plan?

Thankfully, NO.



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# Criminal Court Payment Plans

TCA 40-24-105(b)(1) –

(b)(1) Any person who is issued a license under title 55 and who has not paid all litigation taxes, court costs, and fines assessed as a result of disposition of any offense under the criminal laws of this state **within one (1) year of the date of the completion of the sentence shall enter into an installment payment plan** with the clerk of the court ordering disposition of the offense to make payments on the taxes, costs, and fines owed.



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# Criminal Court Payment Plans

TCA 40-24-105(b)(2) –

(2) The clerk of the court ordering disposition of an offense shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of an offense under the criminal laws of this state who requests to make payments pursuant to an installment payment plan **or who is required to enter into an installment payment plan in accordance with subdivision (b)(1).**



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# Criminal Court Payment Plans

If a criminal court payment plan is properly entered...

And the person defaults,

You can submit that to the Department of Safety when it occurs.

You do not have to wait for the year to expire.



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Questions?



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