




Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE



## TN MUNICIPAL JUDGES CONFERENCE

Spring 2024

1

## John Eskew

MTAS  
Municipal Court Specialist

Nashville Office  
226 Anne Dallas Dudley Blvd, Suite  
606  
Nashville, TN 37219

615-733-0604 – office  
931-551-6796 – cell  
[john.eskew@tennessee.edu](mailto:john.eskew@tennessee.edu)






Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

2



Let's Be Friends!

Who are you?

What city do you serve?









Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

3

## Stuff John's Learned in the Past Year

Guidance,  
Refreshers, and  
Revisions



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

8

## Refresher - Jurisdiction for Municipal Courts

Charter

Code of Ordinances

Municipal Court Reform Act

Other state statutes



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

9

## Charters – A city's birth certificate

Issued by the TN General Assembly

“What the legislature giveth, the Legislature can taketh away!”  
– If the Legislature revokes the charter, the city dissolves.

Says what a city can do and cannot do.

Lays out the type of government structure you use. (Strong Mayor vs. Weak Mayor; City Manager form)



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

10

## Charters – A city's birth certificate

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.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

14

## Code of Ordinances

City's laws and its regulations

Passed by the city council or board of aldermen

Should be available for public viewing (online or in-office)

Can adopt certain state misdemeanors into code and enforce in city courts



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

15

## Charter and Municipal Court's 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 Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

16

## 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

**MCRA is a good guide but doesn't cover everything.**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

17

## Municipal Court Jurisdiction – TCA 16-18-302(a)

The Municipal Court Reform Act starts off like this:

“For any municipality that does not have, on May 5, 2009, a municipal court that was ordained and established by the general assembly, a municipal court is created to be presided over by a city judge...”



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

18

## Establishing a new municipal court

1. Pass ordinances establishing a municipal court (Title 3)
2. If have police, pass Rules of the Road ordinance (Title 15)
3. Property maintenance enforcement (Title 13)
4. Department of Revenue account
5. Court ID number (AOC will create one for you)
6. Court location, finance setup, misc.
7. Judge and court clerk
8. Call me and I come visit (because I'm super fun).



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

19

## 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**



Mostly traffic court, but really any Class C Misdemeanor



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

20

## Two types of jurisdiction

Traditional jurisdiction vs. General Sessions jurisdiction

### Tennessee Constitution – Article VI, Sec.1

#### ARTICLE VI.

#### Judicial Department.

**Section 1.** The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other Inferior Courts as the Legislature shall from time to time, ordain and establish; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by justices of the peace may also be established.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

21

## Two types of jurisdiction

### Traditional Jurisdiction

#### Corporation Court

- “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

“Inferior” vs. “Corporate” courts detailed in Town of South Carthage v. Barrett, 840 S.W.2d 895 (1992).

### Concurrent General Sessions Jurisdiction

#### Inferior Court

- Civil and criminal cases
- Hears municipal code violations
- Hears Class A, B, and C misdemeanors
- There is a risk of going to jail



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

22

## 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?



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

23

## But first...What are Rules of the Road?

Tennessee Code Annotated – TCA 55-8-101 through 307.

Laws passed by the legislature regulating traffic and operations of motor vehicles.

Examples:

- Speeding (TCA 55-8-152)
- Due Care (TCA 55-8-136)
- Running stop lights (TCA 55-8-110)
- Driving with an unlicensed mullet



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

24

## 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.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

25

## 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.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

26

## 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).



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

27

## Example – Customized Citation Book (with blanks)

RESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

VI OL A T I O N	A	TCA 55-8-_____/ORD SPEEDING _____ MPH IN _____ ZONE	CONSTRUCTION ZONE: Y <input type="checkbox"/> N <input type="checkbox"/>	WORKERS PRESENT: Y <input type="checkbox"/> N <input type="checkbox"/>	RADAR PACING	02	OTHER LASER	04	STAT	
	B	TCA 55-12-139/ORD	F	TCA 55-8-_____/ORD	J	TCA 55-_____/ORD	N	TCA 39-17-418 SIMPLE POSSESSION OF SCHEDULE: _____	05	F R
	C	TCA 55-8-_____/ORD	G	TCA 55-8-124/ORD	K	TCA 55-8-199/ORD	O	TCA 39-17-425 UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA		
	D	TCA 55-50-_____/ORD	H	TCA 55-9-602/ORD	L	TCA 55-9-_____/ORD	P	TCA _____ ORD		
	E	DL VIOL. _____	I	TCA 55-9-107/ORD	M	TCA 55-8-136/ORD	Q	TCA _____ ORD		
		SEATBELT LAW _____		WINDOW TINT		DRIVERS TO EXERCISE DUE CARE				
	<p><b>NOTICE:</b> This citation is for a municipal ordinance violation and is civil in nature (unless citation is written to General Sessions or Juvenile Court as reporting purposes only. You are not charged with a criminal offense, but a civil offense for violating a regulation enacted by city ordinance.</p> <p><b>NARRATIVE:</b></p>									



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

28

## List of Class C Motor Vehicle Misdemeanors



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

29

## Offenses in Rules of the Road Ordinance



City courts can hear all Class C Misdemeanors if the fine is a max of \$50.

Here's a link to the long form Rules of the Road Ordinance that details these motor vehicle offenses.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

30

## Sample Rules of Road Ord. Long Form

(2) Municipal traffic offenses. The following are adopted by reference as municipal traffic offenses:

- (a) "Compliance with lawful orders or directions of police officers," as set forth in *Tennessee Code Annotated*, § 55-8-104.
- (b) "Traffic control devices; obedience," as set forth in *Tennessee Code Annotated*, § 55-8-109.
- (c) "Traffic control signals; traffic citations," as set forth in *Tennessee Code Annotated*, § 55-8-110.
- (d) "Flashing red or yellow signals," as set forth in *Tennessee Code Annotated*, § 55-8-112.
- (e) "Unauthorized signs, signals, markings or devices," as set forth in *Tennessee Code Annotated*, § 55-8-113.
- (f) "Altering, defacing or removing devices or signs," as set forth in *Tennessee Code Annotated*, § 55-8-114.
- (g) "Driving upon right half of roadway," as set forth in *Tennessee Code Annotated*, § 55-8-115.
- (h) "Vehicles proceeding in opposite directions," as set forth in *Tennessee Code Annotated*, § 55-8-116.
- (i) "Overtaking and passing," as set forth in *Tennessee Code Annotated*, § 55-8-117.
- (j) "Overtaking and passing on right," as set forth in *Tennessee Code Annotated*, § 55-8-118.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

31

# 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,...”



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

32

# Traditional Municipal Courts – Big Cities

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 (Class B Misdemeanor) – 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



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

33

## 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
- Clarksville – Traditional only
- Murfreesboro – Traditional only



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

34

## Trivia Time!

Originally, the Municipal Court Reform Act did not include the jurisdiction to hear the underage alcohol violations for cities with populations over 150,000.

It was added later.

What happened?



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

35

## GS Jurisdiction – TCA 16-18-302(c)(1)

If you want to exercise concurrent general sessions jurisdiction you must do either:

1. Have possessed and exercised such concurrent general sessions jurisdiction continuously on and before May 11, 2003; or
2. After May 12, 2003, concurrent general sessions jurisdiction is duly conferred upon the municipal court in accordance with the procedures and requirements set forth in § 16-18-311.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

36

## 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.

This creation process involves the city council, county commission, drafting a feasibility study, getting that approved by the local committee, then sending to the House and Senate Judiciary Committees, then having the full House and Senate vote on it.

- TRIVIA: Only one city has completed this entire process since 2004. Who was it?

McEwen, TN



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

37

## Municipal Court Judges – TCA 16-18-308

Broad Rule - A municipal court judge may not hold any other office or employment with the city.

**Cannot serve as judge and city attorney for the same city.**

Cannot be judge and also be on city council or board.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

38

## Municipal Court Judges – Exceptions

Can be a judge and employee if the person was both prior to March 1, 2005;

However, if that person discontinues to serve as an employee or judge, the replacement cannot serve as both;

If a municipal charter allows the person serving as a judge shall also serve as the recorder, then the person can do both jobs.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

39

## Courts and Money



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

40

## 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

---



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

41

## Each element is a separate bucket of money

If a city lumps these together in the same bucket, the city may be cheating itself out of money it can keep.



Fines



Court Costs



State Lit. Tax



Local Lit.  
Tax



E-citation fee



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

42

## Part 1 – Fines - \$50 Limit



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.

It would take a literal constitutional amendment to change this.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

43

## 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



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

44

## 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.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

45



(a) Notwithstanding any law to the contrary, municipal court costs shall be set and collected in the amount prescribed by municipal law or ordinance. From such amount, one dollar (\$1.00) shall be forwarded by the municipal court clerk to the state treasurer for deposit and shall be credited to the account for the administrative office of the courts (AOC) for the sole purpose of defraying the administrative director's expenses in providing training and continuing education courses for municipal court judges and municipal court clerks. The AOC shall allocate fifty percent (50%) of such funds exclusively for the purpose of providing training and continuing education for municipal court clerks. The AOC is authorized to contract with qualified persons, entities or organizations in order to provide required training or continuing education for municipal court judges. The AOC shall contract with the municipal technical advisory service of the University of Tennessee institute for public service in order to provide required training or continuing education for municipal court clerks and may contract with other qualified persons, entities or organizations to provide additional or alternate training to municipal court clerks.

## Court Cost Statute – TCA 16-18-302(a)

One sentence of guidance

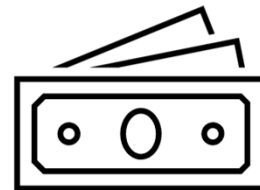


Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

46

## Court Costs

- There is no set amount for any city's court costs
- Can exceed \$50, but cannot be punitive
- Key phrase is "reasonable court costs"
- Court costs are to be determined by the expenditures needed to properly operate your court
- Court costs are set by ordinance



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

47

## 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 goes to the Administrative Office of the Courts (AOC) for training municipal clerks and judges statewide.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

48

## Fines, Costs, and City Funds

Broadly speaking, fines and court costs go to the city's general fund and regular city finance rules apply from there.

E-citation money goes to a special revenue account per the statute and can only be used for specific purposes.

But for most of the other fines and costs, it can be used for the benefit of the city.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

49

## Quiz! – Citation with multiple offenses

Scenario – One traffic stop with multiple offenses

1. Speeding
2. No registration
3. No insurance

How many violations on the ticket?

Three violations

How many fines?

Three separate fines



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

50

## Good job!



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

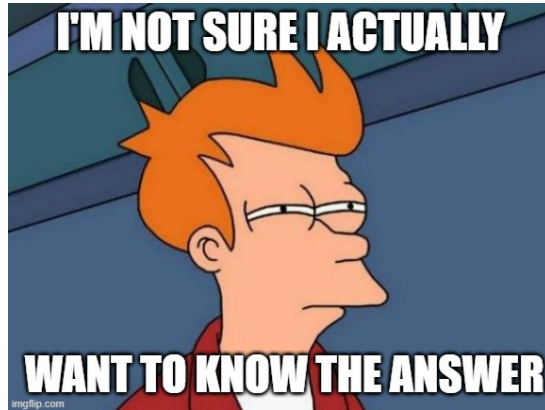
51

## Now, how many court costs?

One traffic stop, three offenses.

How many court costs do you assess?

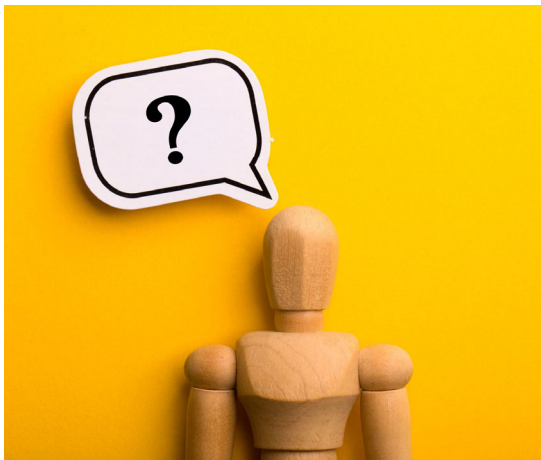
- A. One court costs?
- B. Three court costs?
- C. Dunno, I think John's trying to trick us.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

52

## Survey Say!



Honestly, I don't know.

TCA 16-18-304 and annotated materials do not say one way or another.

Only guidance we have is AG 06-75 where court costs cannot be punitive.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

53

## Multiple Court Costs per Occurrence

### One Court Costs

Fine (3 violations)	\$150
Court Costs	\$150
State tax	\$13.75
<hr/>	
Total	\$313.75

Is that punitive? – No

### Multiple court costs

Fine (3 violations)	\$150
Court Costs	\$450
State tax	\$13.75
<hr/>	
Total	\$613.75

Is that punitive? - Maybe



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

54

## Court Costs for concurrent GS jurisdictions

### Municipal Ordinance violations

For municipal ordinance violations (civil violations), use the court costs detailed in the city ordinances.

- Traffic court
- Codes violations
- Class C Misdemeanors adopted into the city ordinances

### General Sessions violations

TCA 16-18-304(b) allows GS municipal courts to use the same fee/costs schedule as state general sessions courts.

**This means you can charge exactly what the state courts charge for criminal fines and fees.**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

55

## GS criminal court fees – TCA 8-21-401(g)

- \$62 - fee for criminal convictions
- \$42 - fee for criminal traffic conviction
- \$40 - failure to appear fee
- \$40 - additional fee if court issues a capias or bench warrant for the FTA
- \$40 – calling in a surety
- \$75 – request for bonding company to release from final forfeiture or request to reinstate driver's license.
- \$100 – fee for criminal record expungement

**Note:** There are numerous other charges, commissions, fines scattered about in other statutes. Contact your local county court clerk and just do what they do.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

56

## Sample from GS Criminal Court Conference

General Sessions Criminal  
Associate Clerks Conference 2023

B	C	D	E	F
Fee Descriptions	Pay To	Amount	TCA	Comments
Archives Fee	County Trustee	up to \$5.00/case	10-7-408(b)(1)(C)	Must be passed by County Legislative Body - Upon initiating legal proceeding
Arrest Fee	Arresting Agency	\$40.00	8-21-901	
Blood Alcohol Test	Department of Revenue	\$250.00	55-10-413(f)(1)	Upon conviction. Remove if NO test given
Booking Fee	County Trustee	up to \$10.00/case	40-7-122	Must be passed by County Legislative Body
CIC Tax (CAPERSON)	Department of Revenue	\$50.00	40-24-107(a)(1)(A)	Upon Conviction. Remove if charge is dismissed
Clerk Fee - CR	County Trustee		8-21-401	Fee based offices may hold excess fees in office
Clerk Data Processing		\$4.00		Should be earmarked for computerization within your Trustee/Finance Office
Clerk Fee - CR		\$60.00		
County Litigation Tax	County Trustee	Varies by County	67-1-602	Amount set by County Legislative Body. Cannot exceed state litigation amounts set in 67-4-602
Courthouse Security Tax	County Trustee	up to \$25.00	67-4-601(b)(6)	Must be passed by County Legislative Body
Jail Building Tax	County Trustee	up to \$25.00	67-4-601(b)(5)	Must be passed by County Legislative Body
Crthse Jail Renovation	County Trustee	up to \$10.00	67-4-601(b)(1)	Must be passed by County Legislative Body
Jail Fee	County Trustee	Varies by county	8-26-105	Must be passed by County Legislative Body
Judicial Commissioners Education	Department of Revenue	\$2.00	67-4-602(k)	Only in counties with commissioners/magistrates
Public Defender Fee	Public Defender's Conference	\$12.50	40-14-216(k) and Shelby Hall charges	All other counties must be



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

57

## Traffic School – TCA 55-10-301



Judges have discretion to award traffic schools “in addition to, or in lieu of any other penalty imposed.”



There are no state limits on the number of times a driver can attend a 4-hour traffic school in a year or period of years.



Judges can create their own “look back period.”



DOS does not impose points on a person’s record for attending a 4-hour traffic school, regardless of how many times.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

58

## Commercial Drivers Licenses & Masking



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

59

59

## Back in November...



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

60

## Masking Generally



“Masking” a CDL conviction means that a conviction for a CDL license holder was downgraded to a less serious offense or deferred or plea bargained.



If a CDL holder pays the fine without appearing in court, that is the SAME as pleading guilty and will be reported to the State within 5 days under TN law.



Masking prohibitions only apply to moving violations, not parking violations.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

61

## Masking Definition - 49 C.F.R. 384.226

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

Let's talk about "Conviction."



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

62

## Conviction – Definition – “Spot the difference”

### Federal Definition

- “Conviction” means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;
- 49 C.F.R. 383.5

### State Definition

- “Conviction” means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;
- TCA 55-50-102(16)



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

63

## Can you spot the difference?



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

64

## What is CDLIS?



Commercial Driver's License Information System



Nationwide computer system that enables state driver license agencies to ensure each driver only has one record.



This prevents a driver from having multiple state records that may not talk to each other.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

65

## CDL drivers have only one license



CDL holder only has one license.



The CDL part is an endorsement for Class A, B, C, depending on weight, or hazardous materials.



Regular drivers are Class D.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

66

## What about personal vehicles?



Question: If a driver has a CDL, does it matter if he is driving a personal car and not a big truck?



Answer: No. The consequences are the same regardless of the vehicle being driven.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

68

## Back to the Masking Definition – Stuff you can't do

Mask – conceal, dismiss with costs, dismiss without factual basis

Defer imposition of judgment – Ex: Accepts plea of no contest, but judge postpones judgment, and later dismisses the charge.

Enter into a diversion program – Ex: traffic school and dismiss.

Prevent a CDL holder's conviction – If this offense and the facts of the case would support a conviction, judge should convict.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

70

## Federal exceptions that aren't masking

The federal and state prohibitions on masking do not apply to the following violations:

1. Parking violations; (like improper parking on interstate ramps)
2. Vehicle weight violations;
3. Vehicle defect violations.

See 49 C.F.R. 384.226

Judges can dismiss or reduce these violations and that is legal.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

71

Here's the tricky part...it can vary by state

What constitutes  
masking depends  
on your state  
specific law.

What may be  
masking in TN is  
not masking in  
other states



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

72

Traffic School is masking in TN



Traffic school is governed  
by TCA 55-10-301



Statute says a judge can  
offer traffic school "in  
addition to, **or in lieu of, any  
other penalty imposed**"



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

73

## Traffic School is masking in TN

Because of the magic words, “*in lieu of any portion of other penalty imposed*,” attending traffic school would otherwise dismiss or conceal a guilty verdict or constitute a diversion.

Because this would result in no report of conviction to CDLIS, this constitutes masking.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

74

## Also, because the statute clearly says so:

TCA 55-10-301(c) and (d) say as follows:

(c) Subsection (b) (*the traffic school option*) shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle.

(d) Subsection (b) (*the traffic school option*) shall not apply to any person who holds any class of driver license and who is charged with any violation, except a parking violation, while operating a commercial motor vehicle.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

75

## Lastly, a case says no traffic school



Metro. Gov't of Nashville & Davidson Cnty. v. Stark, 2008 WL 276005, (Tenn. Ct. App. Jan. 31, 2008)



Court of Appeals case that reversed the trial court's order allowing the CDL driver to attend traffic school.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

76

## Dismissal with costs is also Masking

Because the penalty is reduced (no conviction) but not an outright dismissal based on the facts or law, this constitutes masking.

Also, dismissing a case with a donation to the Drug Fund or some other charitable group is also masking.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

77

## Reducing the charge is also Masking

Charged with Reckless Driving (Class B misdemeanor)

Judge reduces to Speeding (Class C misdemeanor)

Because the original charge was more severe than the final conviction, this is masking.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

78

## But reducing the speed is ok...

If charged with Speeding (Class C misdemeanor) with 20 mph over

Judge convicts for Speeding (still Class C misdemeanor) but reduces the speed to 10 mph over

This is not masking because the original charge and the final conviction is the same.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

79

## Dismissing a case entirely

Judges can dismiss a case entirely and that is ok.

But the dismissal should be based on the facts, legal issues, testimony, and/or witnesses.

Don't dismiss based on sympathy.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

80

## Plea bargaining

### Judge's unilateral action

- Judge should not do the plea bargaining and reduce a charge from the bench.
- Allowing a driver to enter a new, lesser plea is considered masking.
  - Ex: Charged with speeding, but judge amends charge to a parking ticket and accepts the plea

### Prosecutor and Defense Counsel

- If prosecutor and defense counsel plea bargain outside of court, and present a compromise based on facts and law...
- The judge can accept this proposed plea bargain and it not be masking.
- Assumes there is a factual basis for the plea bargain.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

81

## Prosecutor and Defense counsel

If the proposed plea bargain is a completely separate charge not supported by facts, and that's presented to the judge, it's still masking, even if the prosecutor and defense counsel agreed.

- Example:

- Charge – Failure to obey traffic device
- Prosecutor amends charge to defective muffler and muffler ticket is filed with the court.
- Court accepts plea to muffler ticket and fine is paid.
- This is masking because no legal/factual basis to do so, and ethically questionable.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

82

## Department of Safety's CDL Citation website

The screenshot shows a Google search interface. The search bar contains the text "TN Department of Safety CDL citations". Below the search bar, the results are displayed. The first result is from "TN.gov" with the URL "https://www.tn.gov/safety/driver-services/cdlcitation". The title of the result is "Commercial Driver License Citations". The description states: "The Tennessee Department of Safety (TDOS) needs ... These new minimum requirements must be included on all traffic citations whether they are Non-CDL or CDL."

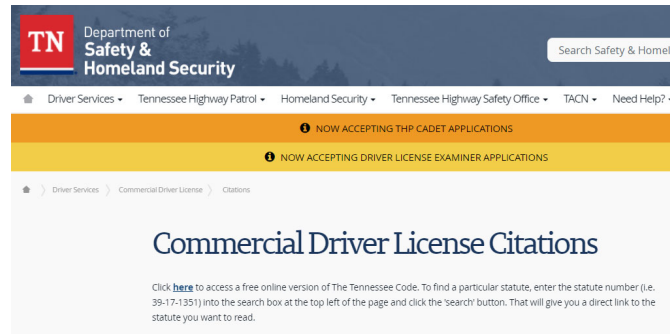


Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

83

## Department of Safety's CDL Citation website

<https://www.tn.gov/safety/driver-services/commercial-driver-license/cdlcitation.html>



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

84

## Department of Safety's CDL Citation website

### What does "masking" a CDL conviction mean?

- Masking a CDL conviction means that a conviction for a CDL license holder was downgraded to a less serious offense or deferred or plea bargained.
- If a CDL license holder pays the citation fine without appearing in court, that is the SAME as pleading guilty. This should be reported as a conviction within 10 days.
- Federal prohibition against masking CDL convictions is applied only to moving violations, not parking violations.
- Per Tennessee Code Annotated, the dismissal with costs for a registration violation would not be prohibited under TN law.
- Federal and state law prohibits masking of CDL or CMV convictions by sending convicted persons to traffic school or dismissing with cost. However, judges MAY downgrade the offense, find the defendant not guilty, or plea bargain the charge.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

85

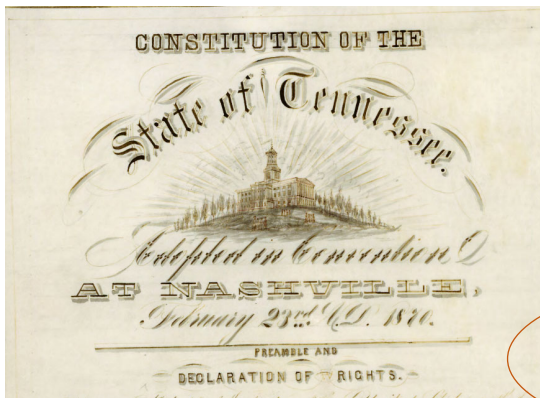
## Shifting gears – proposed and passed legislation



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

86

## Municipal Court Fines - \$50 Limit



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.

It would take a literal constitutional amendment to change this.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

87

## Well...here's a possible Constitutional change



House Joint Resolution 858



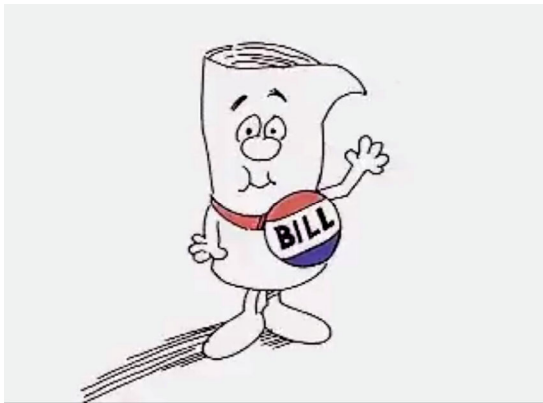
Proposed Legislation –  
Increases municipal court fines  
up to **\$3,000**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

89

## But...lots of steps to amend the Constitution



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

90

## Amending the Constitution

1. File Joint Resolution in the House and Senate
2. Pass through H/S Committees like any other bill
3. Pass both House and Senate Chambers
4. Then wait until new General Assembly takes seat (each GA is a two year cycle)
5. New General Assembly must pass this again, then...



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

91

## Amending the Constitution (continued)

6. Goes on the ballot for the next state referendum (November elections)
7. Two things must happen:
  - a) Amendment must get more "Yes" votes than "No" votes
  - b) Number of "Yes" votes must be a majority of the total votes in the Governor's election.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

92

## Amending the Constitution (continued)

In other words, votes for all candidates for governor are added together, then divided by two.

If there are more “yes” votes than “no” votes on the amendment and that number of “yes” exceeds 50% of the total votes for governor, then it passes.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

93

## Things more likely to happen than this:



Spotting a Chick-Fil-A open on a Sunday



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

94

## Unbiased referee in the UT – Bama game



ANXIETY



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

95

## TDOT finishing all road projects



imgflip.com



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

96

## HB 2205 / SB 2054 – General Sessions Courts

Proposed law still under consideration in the House.

- District Attorney will only prosecute cases in municipal court where the city “provides sufficient additional prosecutorial personnel of at least 1 ADA position initially funded at entry level compensation and thereafter compensated in accordance with TCA 8-7-226...”
- The necessity and sufficiency of additional prosecutorial personnel to be provided by the municipality is determined by and in the sole and exclusive discretion of the DA.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

98

## What does this mean?

- If this passes, the GS jurisdiction city will have to find the money out of city funds to pay the District Attorney the cost for a prosecutor
- The Fiscal Note says the pay for an entry level prosecutor is \$63,853, but the DA could ask for any amount they deem necessary.
- Fiscal Note says total impact is \$1,253,313.
- However, this doesn't include other compensation like health benefits or TCRS contributions.
- Fiscal Note underestimated the number of GS courts too.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

99

## Additional points to the bill

- The DA can determine what to pay the prosecutor assigned to the municipal courts and can raise the pay at the DA's discretion.
- Fiscal Note also say "For any municipality who **opts to participate**, there will be a **permissive recurring increase in local expenditures to fund an ADAG position**; the extent of such permissive increase in local expenditures will be dependent upon the number of municipalities that participate and the number of additional prosecutorial personnel the DAG determines is necessary and sufficient."



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

100

## Additional points to the bill



Nothing in this bill says that this prosecutor will be working for your court full time



Meaning, the city could be paying for someone who only spends 10% of their time working in the municipal GS Court.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

101

## If this passes...

General Sessions cities likely will need to reallocate their budgets to pay these expenses to the District Attorney's office to fund a prosecutor.

Alternatives may be to hire private practice attorneys to serve as your city's prosecutors.

**Note:** If you do that, you will need the local District Attorney's office to approve and/or "deputize" these lawyers to serve as criminal prosecutors.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

102

## Update on HB 2205 – Sent to TACIR

- House Finance, Means, and Ways committee voted to send this to TACIR for further study.
- Bill did not pass this year.
- If tried again, would have to start from the very beginning.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

103

## “Eddie Conrad Act” - Effective January 1, 2024

Amends the Hands-Free law

TCA 55-8-199(c)(4)

Drivers under 18 years old

2<sup>nd</sup> or subsequent violation of the Hands-Free Law

Seven points charged to the person’s driving record



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

104

## Pop Quiz!

Do you have to offer payment plans for out of state drivers?

- A. Yes
- B. No
- C. Not sure, I think John’s trying to trick us



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

105

## Trick Question – We aren't sure

Safe play - offer a payment plan to out of state drivers

However, payment plan law TCA 55-50-502 only discusses the authority of the Department of Safety to suspend TN license holders.

TN DOSHS cannot suspend out of state drivers, only submit defaults and FTAs to other states and those states' laws govern.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

106

## Looking for a Volunteer!



Department of Safety's legal counsel recommended a city request a formal Attorney General opinion on this issue.

This is an ambiguous question, so we are looking for a volunteer.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

107

## GS Municipal Judges and Residency



Question: Does a popularly elected municipal court general sessions judge have to live in the city limits?



Answer: Nope. Not according to the TN Court of Appeals



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

109

## McNabb v. Harrison – 2023 WL 7019872



Case out of Lenoir City located in Loudon County



Case discusses residency requirements for general sessions municipal judges



Contested election, winning judge (Harrison) did not live within the city limits of Lenoir City, but did live in Loudon County.



Defeated judge (McNabb) sued to challenge result based on residency.



Ruling: Winning judge did meet the residency requirement because lived in “district or circuit to which [the Lenoir City Municipal Judge is] to be assigned,” which was Loudon County.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

110

# Revised Guidance Time!

Or as my family likes to call it..



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

111

## Important Dates for Reporting Convictions



Commercial Driver's License  
(CDL) convictions – 5 days

TCA 55-50-409



For regular driver's licenses  
convictions – 30 days

TCA 55-10-306



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

114

## When does a “conviction” occur?

### Possible revised guidance

If a person pays a ticket in full prior to court,

But does not sign anything that pleads guilty,

- Do you turn in the case as convicted right then?
- Or wait until court date comes and goes then turn it in?



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

115

## When does “conviction” occur?

### John’s previous advice:

If all they do is pay money and don’t sign anything that says guilty...

The money serves as a cash bond...

Bonds cannot be forfeited until the court date comes and goes.

### Department of Safety’s practice:

Once a person pays the ticket, even prior to court, the reporting clock starts.

The 5 day (CDL) and 30 day (everyone else) reporting period starts when they paid the ticket.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

116

## How did this come up?

### TN Court Statistics Non-Commercial Vehicle Convictions

Report Date: 07/14/2023 T.C.A. 55-10-306

Convictions Received From 01-Apr-2023 to 30-Jun-2023

#### Rating Key:

85% - 100% = Compliant

65% - 84% = Non-Compliant

0% - 64% = Non-Compliant

Court ID	Court Name	Conviction to TDOSHS submission date <= 30 days	Conviction to TDOSHS submission date > 30 days	Total Convictions	% of Total Reports	Overall Rating
CT01011	Anderson County GS Clerk	164	8	172	95.35%	Compliant
CT01013	Anderson County Circuit Court Clerk	19	0	19	100.00%	Compliant
CT01022	Lake City City Court	37	12	49	75.51%	Non-Compliant
CT01041	Anderson County GS Clerk	65	0	65	100.00%	Compliant
CT01042	Oak Ridge City Court	275	209	484	56.82%	Non-Compliant
CT02012	Bell Buckle City Court	2	0	2	100.00%	Compliant
CT02031	Bedford County GS Clerk	558	29	587	95.06%	Compliant
CT02032	Shelbyville City Court	71	296	367	19.35%	Non-Compliant
CT02042	Wartrace City Court	2	4	6	33.33%	Non-Compliant
CT03012	Big Sandy City Court	6	2	8	75.00%	Non-Compliant



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

117

## CDL statute – TCA 55-50-102(16) - Conviction

(16) “Conviction” means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, **an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court**, a plea of guilty or nolo contendere accepted by the court, **the payment of a fine or court cost**, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

118

## Regular drivers' statute – TCA 55-10-306(b)(1)

(b)(1) Except as provided by § 55-50-409, within thirty (30) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of chapter 8, arts 1-5 of this chapter and § 55-12-139 or other law regulating the operation of vehicles on highways, every such magistrate or judge of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of the court covering the case in which the person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

119

## Takeaway: Possible conflicting language

Both statutes distinguish “conviction” and “forfeiture of bail” and separate, distinct things.

However, if a person pays the fine and court costs, that could constitute a conviction for the CDL statute.

Risk: If city convicts someone prior to court without an overt admission of guilt, runs the risk of violating constitutional rights to a hearing.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

120

## Practical Result



If the Department of Safety says the 5 day and 30 day reporting period starts when the person pays the ticket prior to court.



If you wait until the court date comes and go, then the city's audit numbers will reflect "noncompliant."



Talk it over with your city attorney and I'll keep you updated, but we may need to report convictions as soon as people pay, even if before court.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

121

## Update: We have an answer!

Send it in as guilty when they pay,

Even if it is before court.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

122

## TCA 55-10-207(f) – Citations statute

- (f) Prior to the time set for the person to appear in court to answer the charge, **the person cited may elect not to contest the charge and may, in lieu of appearance in court, submit the fine and costs to the clerk of the court.** The submission to fine must be with the approval of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed. The submission to fine shall not otherwise be exclusive of any other method or procedure prescribed by law for disposition of a traffic citation that may be issued for a violation of any provision of this chapter or chapter 8, 9, or 50 of this title or § 55-12-139 or chapter 4, part 4 of this title.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

123

## Reporting Impact



This will help with any future compliance audits.



Good compliance audit results = good graces with Federal DOT



Good graces with Federal DOT = TN gets Federal \$\$\$



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

124

## What if the person shows up to court anyway?



If a person pays prior to court and you turn them in as guilty...



And they show up and contest the case...



If the judge rules in their favor, just submit a corrected Court Action Report and refund the money.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

127

## Practical Tips

Paper Court Action Reports do not have “Date Paid” boxes anyway, so your audit reports should not have been affected either way.

Not every 3<sup>rd</sup> party software solution indicates “date paid = conviction date,” so consult with your vendor to make sure your date paid is the same as conviction if paid prior to court.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

128

# Let's discuss what to send to the DOSHS



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

129

## Dept. of Safety

### Memorandum from 2023 to all courts (city and county courts)



## Memo

**To:** Court Clerks  
**From:** Fiscal Services, Tennessee Department of Safety and Homeland Security  
**Date:** April 3, 2023  
**Subject:** Fines Payable to the Department of Safety and Homeland Security

The Department of Safety is now accepting Fines and Fees via online payment and email submission of the report. Please see the included Excel file for instructions.  
Submit payment to: [https://paydirect.link2gov.com/TN\\_Safety\\_Payment\\_Portal](https://paydirect.link2gov.com/TN_Safety_Payment_Portal)  
Submit Excel Support to: [TDOHS.revenue@tn.gov](mailto:TDOHS.revenue@tn.gov)

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

TCA 55-8-164	Child Passenger on Motorcycle (paid to Safety per TCA 55-10-303)
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 55-10-207	eCitations (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 55-50-604)







Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

130

## Memo Zoomed In – DOS gets these fines

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

TCA 55-8-164	Child Passenger on Motorcycle (paid to Safety per TCA 55-10-303) 
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 55-10-207	eCitations (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 55-50-604) 



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

131

## Statutory Citations Format

TCA = Tennessee Code Annotated

TCA 55 – 8 - 152 (Speeding)



Title



Chapter



Section



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

132

## If charging a state criminal violation...

TCA 55-10-303 says the Department of Safety gets the fine money for all state criminal traffic violations under the following circumstances:

(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...



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

133

## However, cities can adopt these into their code

TCA 55-10-307 gives cities the authority to adopt various statutes regulating motor vehicles into its city code:

(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.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

134

## City ordinance violations, not state charges



Once a city adopts the Rules of the Road into its city code, these previously criminal state statutes “magically” transform into civil, city code violations.



Since they are city code violations, TCA 55-10-303 no longer applies.



TCA 55-10-307 applies, and city code violations stay with the city, unless the state statute you adopted requires the funds to be sent to the state.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

135

## More Revised Guidance - Speeding

**Old Guidance:** Traditional Courts should collect the extra \$5 fine for speeding in excess of 10 mph because traditional courts can hear Class C misdemeanor speeding cases.

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)

**Sidenote:** As long as the original speeding fine was not maxed out at \$50.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

136

## New Guidance – Don't collect this extra \$5 fine

TCA 68-55-301 – Speeding; fines and penalties:

Notwithstanding any other law to the contrary, **in addition to any other fines imposed by title 55, chapter 8**, for driving a motor vehicle in excess of ten (10) miles over the posted speed limit, there is imposed an additional fine of five dollars (\$5.00) for each such violation to be earmarked for and paid into the general fund reserve account created by § 68-55-401.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

137

## New Guidance

Pursuant to City of LaVergne v. Lequire (2016), jurisdiction is established under city ordinances that adopted the Rules of the Road;

The ticket should indicate the Rules of the Road city code section that was violated;

**Driver is prosecuted under the city code violation, and not the state criminal law violation in Title 44, Chapter 8.**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

138

## New Guidance – AG opinion 05-091

AG opinion 05-091 distinguishes this extra \$5 as a fine, not a court costs.

**However, this opinion describes this fine for violating a state criminal statute:**

The “fines” are in fact fines and not court costs. The increased fines in this statute are imposed for violating a criminal statute making it unlawful to drive a motor vehicle in excess of the posted speed limit. The additional fines are authorized if a defendant violates the speeding statute in excess of ten (10) miles over the posted speed limit. It is a fine for violating a criminal statute.

**Traditional city courts cannot enforce criminal statutes**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

139

## So what fines do send to the DOS?

Traditional City Courts: 4 items for sure.

1. Seatbelt fines – TCA 55-9-603(d)(1)
2. Child Restraint fines – TCA 55-9-602(f)(1) and (2)
3. Drivers' license violation fines – TCA 55-50-604
4. Child Passenger on Motorcycle – TCA 55-8-164(e)(2)(A)

**Child must in a real seat with proper footpegs, not just hanging on to the driver's back**



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

140

## Fines to DOS - continued



Main takeaway – these four statutes clearly say, “Department of Safety gets the money.”



If you read the other 95+ Rules of the Road statutes, they do not say, “Department of Safety gets the money.”



But to do this right, the city must adopt the Rules of the Road and cite the city code on the ticket pursuant to City of LaVergne v. Lequire



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

141

## New Language Service!

Tennessee Language Center (TLC) and MTAS have a new program for language services for municipal officials.

Expanded to municipal courts if a city court needs these services.

For now, it's covered by grants and other funds so no cost to the city.

If you don't have an existing language service (via phone or other methods) keep this in mind.



Municipal Technical  
Advisory Service  
INSTITUTE for PUBLIC SERVICE



Tennessee  
Language Center  
INSTITUTE for PUBLIC SERVICE

### Language Collaborative for Municipal Officials

#### Language Services at No Cost to Municipal Officials

##### Written Translation

- Signage
- Documents
- Applications
- and more!

##### Verbal Interpretation

- Phone system recordings
- In-person interpreters
- 24-hour telephonic interpretation

MTAS is proud to sponsor municipal officials who would like to take advantage of this great resource from the **UT Tennessee Language Center**.



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

142

Questions?



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

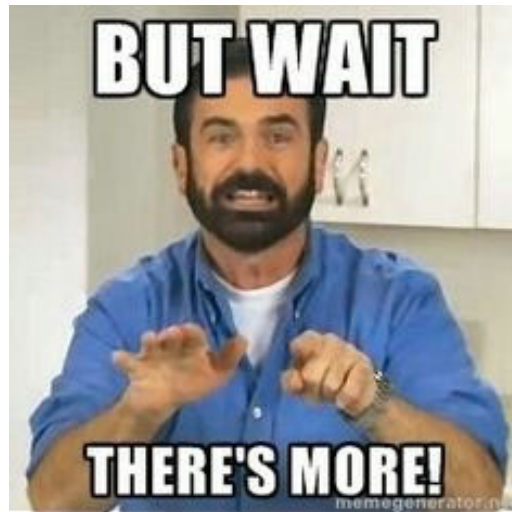
143

## Foundations and Updates - 7 Classes



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

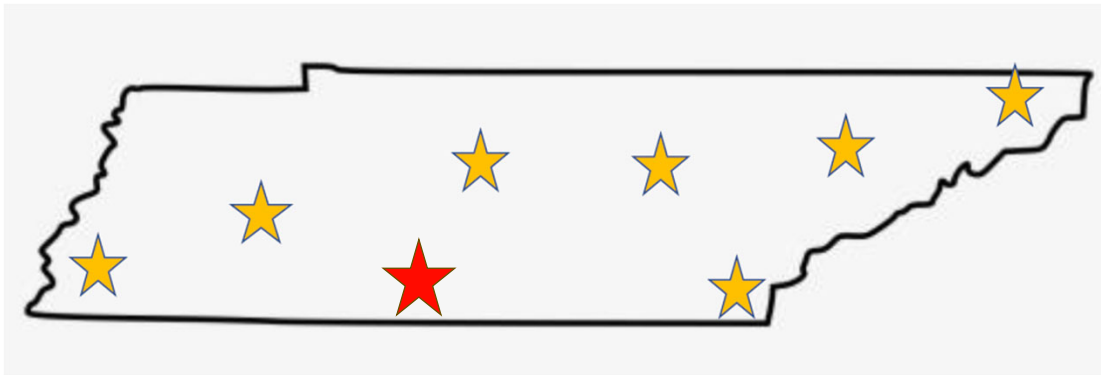
144



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

145

## New 8<sup>th</sup> Class – Pulaski – Southern Mid. TN



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

146

## Dates & Cities – 8:30 am – 12:30 pm

- September 5 (Thursday) - Johnson City
- September 6 (Friday) – Knoxville
- September 11 (Wednesday) – Pulaski
- September 12 (Thursday) – Nashville
- September 26 (Thursday) – Cookeville
- September 27 (Friday) – Collegedale
- October 2 (Wednesday) – Jackson
- October 3 (Thursday) - Bartlett



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

147



### John Eskew – Municipal Court Specialist

[john.eskew@tennessee.edu](mailto:john.eskew@tennessee.edu)

615-733-0604 (Office)

931-551-6796 (Mobile)



Municipal Technical Advisory Service  
INSTITUTE for PUBLIC SERVICE

150