

When You Become 18 . . .

In Tennessee



“A SURVIVAL GUIDE FOR
YOUNG ADULTS”

A Project of the Chattanooga Bar Association

WHEN YOU BECOME 18

“A Survival Guide For Teenagers”

A project of the Chattanooga Bar Association

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Congratulations! At age 18, you have reached an important milestone in your life and become an adult in many ways.

The goal of this booklet is to help you understand some of your rights, and help you avoid problems.

You now have the right to make many important decisions on how to shape your future. But these decisions bring about new responsibilities and consequences. At 18, you can buy a car, take charge of your finances, males must register for the military, enter into legal contracts and vote – *all without parental consent or assistance*. However, your parents no longer have to support you. At 18, you can personally be sued and you are also responsible for paying your own income taxes.

This booklet is an informational guide that summarizes some legal issues that were in effect on the publication date. This booklet does not offer legal advice and cannot cover everything. Keep in mind that the laws are always subject to change. Legal advice should only come from an attorney of your choice who can take into account all of the factors relevant to the particular situation. Laws may vary slightly from jurisdiction to jurisdiction.

“When You Become 18: A Survival Guide for Teenagers” was originally developed in 1993 by the California Law Advocates of the Foundation of the State Bar of California. It has been redesigned and prepared for you by the Chattanooga Bar Association to conform to Tennessee law and is available to all Hamilton County 18-year old young adults.

This booklet – a project initiated by the CBA Auxiliary in 1996– is dedicated *in memory of Flo Summitt*. This booklet would not exist without Flo’s vision and dedication to the legal community.

“I appreciate the Chattanooga Bar Association Auxiliary providing this great resource for young people in Chattanooga to help make sense of their transition to legal adulthood. Our community, our state, and our country are better off when our young adults are informed and engaged.”

-BOB CORKER, UNITED STATES SENATOR

“One of my goals is to put the teaching of American history and civics back in its rightful place in our schools so our children grow up learning what it means to be an American. This booklet is a good tool to help students understand their rights and responsibilities as adults in our remarkable country.”

- LAMAR ALEXANDER, UNITED STATES SENATOR

“This booklet is a valuable resource for anyone 18 or older who wants to learn more about their legal rights as an adult. I commend the Chattanooga Bar Association for providing important information that will guide them as they make key decisions about their future.”

- BILL HASLAM, GOVERNOR OF TENNESSEE

“This booklet is a valuable resource and an important tool in helping our high school students make responsible decisions as they mature to young adults.”

- JIM COPPINGER, HAMILTON COUNTY MAYOR

“This booklet has always been a valuable resource to the community. I believe the information in it provides a clear explanation of why it is so important to make good decisions. My hope is that readers will decide to join me and so many others in our community to help ensure we have safer streets, stronger neighborhoods, smarter students, and stronger families.”

- ANDY BERKE, CITY OF CHATTANOOGA MAYOR

When You Become 18

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CHATTANOOGA BAR ASSOCIATION

When You Need A Lawyer.

LRS (*Lawyer Referral Service*) is a Service provided by the Chattanooga Bar Association with its main purpose to assist in finding a lawyer to provide advice on legal problems.

LRS has panels ranging from administrative boards of agency to Worker's Compensation. These referral panels are arranged so that attorneys wishing to obtain cases within a particular area of expertise are not required to handle matters in which they are not interested or are uncomfortable in handling.

The specialty or referral panels also enable a client utilizing **LRS** to obtain an attorney interested in handling a specific type of problem he or she is concerned with and hopefully, provides better service to the public.

The Chattanooga Bar Association's **LRS** is recognized as an authorized method of recommendation of professional employment pursuant to DR2-103 of the Code of Professional Responsibility.

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CONTRACTS

What is a contract?

Contracts are agreements that contain specific terms between two or more people or entities (meaning companies) where someone promises to do something in return for something else of value, what's known as consideration. Contracts are critical to the proper functioning of a stable economy and figure into the vast majority of commercial transactions.

Who is allowed to enter into a contract?

In Tennessee, you must be at least 18 years old to enter into a legally binding contract. Those younger than 18 are referred to as minors and do not have the legal capacity to enter into a contract. Those suffering from mental incapacity can also have contracts voided. One note of caution: many cases indicate that those who are voluntarily impaired due to alcohol or drugs can still have contracts enforced against them. In such a case a contract can usually only be voided if the person is so far gone to not even understand the consequences of their agreement and if the sober party is purposely taking advantage of this impairment.



What makes a contract valid?

As you might expect, most contracts are written agreements. However, this should not be mistaken to mean that verbal contracts are not equally as enforceable. Such oral agreements exist frequently and can involve a variety of things such as an agreement to make repairs to a home or car or to perform any number of other services. Though written contracts are typically easier to prove, oral agreements are as enforceable as written ones.

Examples of contracts

You will encounter contracts frequently when making purchases (ever read the terms and conditions on iTunes?), hiring people to perform services, and sometimes even to get a job. An incredibly common example of a contract is a credit card agreement. The credit card issuing company agrees to allow you, the cardholder, to use the card and borrow money up to a certain point. You then agree to repay the borrowed money, with interest, according to the specific terms of the contract you signed.

EMPLOYMENT

Those who are working in Tennessee may not realize that their job touches on several important aspects of the law. Things such as employment discrimination and your ability to quit or be fired from your job are all covered under Tennessee law and deserve a quick discussion.

Employment discrimination

Workers in Tennessee are protected from discrimination under the Tennessee Human Rights Act, which says it is illegal for employers or labor organizations to discriminate against individuals on the basis of a variety of factors. The law specifically addresses employment discrimination on the basis of race, creed, color, religion, sex, age and nationality.

The law prevents employers from engaging in what are referred to as “discriminatory practices,” meaning any direct or indirect act of exclusion, distinction, restriction, segregation, limitation, denial or any other practice of differentiation or preference of people based on the above-mentioned factors.

How about getting fired?

In Tennessee, employment relationships are known as “at-will” meaning that employers are allowed to fire workers without giving a reason or notice. This at-will relationship covers most private employment situations with exceptions for government workers, union members and contract employees which often have other arrangements that offer some special protections for their jobs.

Employment-at-will is a two way street, meaning that both the employer and the employee are free to terminate the relationship whenever either chooses to do so. For the employer, this means that they can fire any employee any time they want, with cause or without, with notice or without, and do not even have to provide the employee with a reason. Though this can seem scary, the good news is it works both ways. Employees are also free to end the employment relationship any time they choose, for any reason or no reason at all.



Though this at-will system gives employers a lot of leeway in hiring and firing, Tennessee law has noted some exceptions. As we previously noted, termination cannot be based on discrimination, which would violate the Tennessee Human Rights Act. Employees also cannot be fired for being called into military service, for participating in jury duty, for voting, for having their wages garnished or for filing workers' compensation claims.

PAYCHECK

The moment when you receive your first paycheck is an exciting one for everyone. You should be proud at working hard and for earning some money of your own. Take a moment to bask in your own accomplishment. Once the basking is done, you might start to notice a sinking feeling as you more closely examine the paycheck and discover just how much of your hard-earned money has been siphoned off for other purposes. Rather than crumple the paystub up in disgust, let's walk through what the different categories mean. After all, you might as well know where your money is going.

What's on the paycheck?

Every company is different so it's hard to say with any certainty what your specific paystub will look like. Though the exact layout is unknown, everyone will likely run across the following categories:

Gross income: This is the money you made based on the actual hours you worked, before any deductions. This is the number you wish your check was for, sadly, other people got their cut first.

Net income: This is the amount of money that you actually took home, after all the taxes and deductions were figured in. You may feel inclined to weep when you see the difference between your gross and your net, that's normal.

Now for the deductions

The following are the most common taxes you'll find deducted from your paycheck:

FICA: FICA (Federal Insurance Contributions Act) taxes include two programs that everyone must contribute money to each pay period, Social Security and Medicare. A total of 6.2 percent of your income goes to Social Security while 1.45 percent goes to Medicare. Your total contribution to both is actually much higher, but your employer picks up the other half of the taxes.

Federal income tax: This is the tax paid to the federal government and is calculated as a percentage of your income. The exact percentage depends on your income level, but can vary between 10 percent and 39.6 percent.



Workers in most other states have to contend with state and even local income taxes, two other categories chipping off additional income. Thankfully there is no state income tax in Tennessee, meaning residents of the state are spared yet another line of deductions.

TAXES



Death and taxes, two things none of us can escape. When you receive your first paycheck, assuming you haven't already, you're bound to notice that some money has gone missing. Don't worry, it's not the result of thievery, the government just collected their share.

What's the point of paying taxes?

You may be a little miffed at having such a seemingly large portion of your income diverted to taxes, and that's certainly understandable. Though it doesn't always help make the process less painful, it's good to know that the money goes to good use. Taxes can definitely feel like a burden but are a necessary part of living in any country. Federal income taxes go toward a multitude of important national services and programs, everything from building roads, funding the military and traveling to space.

So do you have to pay?

The fact of the matter is that if you earn money you will have to pay taxes. Also, your age is no excuse; the IRS is clear that age is not a factor in determining whether someone owes income tax. If you receive money from a company, the company will simply take taxes from your check each pay period. If you earn over a certain amount in a given year, you will have to file an income tax form and pay taxes on that amount. In 2012, the rules said that a tax return must be filed if a person has earned income, meaning money from wages greater than \$5,950.

What about Tennessee taxes?

Thankfully, Tennessee does not have a general state income tax. Once you begin earning money the lack of an additional income state tax will be much appreciated, a perk enjoyed by residents in only seven states across the country. Though there's no general income tax in Tennessee, the law does slap a six percent fee on interest and dividend income from investments, so it's possible that in some cases you could end up having to pay something.

Penalties

Everyone's heard what happens when people try and avoid giving the government their due. Tax obligations are not dependent on your level of wealth; the government can come after tax cheats whether they are rich or poor. Though there are a variety of possible penalties faced by those who fail to file or pay their taxes, the short answer is that tax evasion can result in any number of civil and even criminal punishments, including imprisonment.

SOCIAL SECURITY AND MEDICARE

One of the things most 18 year olds are bound to encounter once they have their first paying job is a curious line on their paystub labeled “FICA.” The deduction won’t come with an explanation but it will mean that a sizable chunk of your paycheck disappears to fund certain government programs. So what is this all about and why do you have to fork over the money?

What is FICA?

Under the Federal Insurance Contributions Act (FICA), 12.4% of everyone’s income up to an annual limit (\$113,700) must be paid into Social Security, and an additional 2.9% must be paid into Medicare. If you are working for someone else, you will only pay half the FICA bill, while your employer will handle the rest.

What is Social Security?

Social Security is a federal insurance program that provides benefits to retired individuals. The money raised from FICA taxes primarily goes to providing benefits for those who have reached retirement age. This means that your Social Security taxes go to provide funds for the people who are retired and drawing benefits today. The goal is that when today’s workers retire, the workers at that time will provide the money for them to draw on.

What is Medicare?

Medicare is a national insurance program, administered by the federal government since 1965. The program guarantees access to health insurance for those Americans aged 65 and older as well as some younger people with disabilities.

Can you opt out?

Nice try, but the answer is a resounding no. Many have tried and few have succeeded. The FICA taxes are mandatory and are automatically deducted out of your paycheck by your employer. Unless you belong to a recognized religious sect that is opposed to accepting Social Security benefits, like the Amish, then you’re pretty well stuck.



WORKER'S COMPENSATION



Though most people are thrilled to find a job and finally start earning a paycheck, this excitement can turn to panic in the event of an on-the-job injury. Thankfully, the workers' compensation system in Tennessee is designed so that workers do not have to fear being hurt at work and then left without a way to pay potentially costly medical bills.

What is workers' compensation?

Workers' compensation is insurance that every Tennessee employer with more than five employees must carry. This insurance means that if a worker is injured while at work or becomes sick due to circumstances surrounding their job, they can receive benefits to pay for their care and compensate them for their injuries. These benefits include payment of medical expenses, disability payments and even death benefits if an injury turns fatal.

Who pays for all this?

Thankfully workers do not have the burden of paying for their own worker's compensation insurance. Tennessee law mandates that employers are responsible for providing the coverage to their employees. The law says that workers cannot be charged for benefits or any portion of their workers' compensation premium. However, workers' comp insurance is not meant to take the place of the worker's personal insurance.

What injuries are covered?

Any worker who has been injured at work or from a condition that arose out of their employment is able to file a workers' compensation claim. The test is that the injury must in some way be job-related. This means you can even file a claim if you were injured while traveling on business; you don't have to physically be in the office at the time the injury occurred.

Examples of some covered conditions include broken bones, back problems, knee problems, carpal tunnel syndrome and muscle pain.

Can I lose my job because of a workers' compensation injury?

Many workers fear reporting on-the-job accidents and injuries, understandably worrying that their employer might retaliate and that they might lose their job as a result. Thankfully, Tennessee laws prohibit your boss from firing you because of a workers' comp injury. In fact, if it is discovered that an employer fired an injured worker in retaliation for a workers' comp claim, that worker can then file a civil lawsuit and seek financial compensation in court.

HEALTH INSURANCE

Though the recently signed [Affordable Care Act](#) has received enormous attention, many people might still be confused about exactly what the legislation requires of individuals. According to a helpful article by the [Kaiser Family Foundation](#), the Affordable Care Act requires that many people be insured or face a penalty. The following discussion will explore how the individual mandate works.

What is the individual mandate?

The individual mandate is a provision of the Affordable Care Act that requires every individual to have health insurance in 2014 or else pay a penalty. This coverage can be supplied through your job, through public welfare programs like Medicare or Medicaid, or through an individual policy.



Who is impacted by the individual mandate?

The mandate is specifically aimed at nearly 60 million people younger than 65 who do not currently have insurance. Government estimates say that three out of five Americans will have coverage through their employers while another 12 percent will be covered through a federal or state government insurance program. These groups are not affected by the mandate.

Exceptions to the individual mandate

The Affordable Care Act includes several exemptions. One primary exempt group includes those who cannot afford coverage due to high premium costs or a low household income. Native Americans, prisoners, illegal immigrants and those with certain religious objections are also exempt from the individual mandate.

When do you have to report insurance coverage?

The current law states that individual coverage or exemptions will not need to be reported until you file your 2014 income tax return, which will not be due until April 15, 2015.

What happens if you don't get coverage?

Those who are not exempt from the penalty and who still choose not to get covered they will face a penalty imposed by the IRS at the end of the tax year. The penalty for the first year of noncompliance is \$95 per adult and \$47.50 per child, or 1 percent of your family's income, whichever is greater. Though this may not seem like much of a fine, it's important to note that the fines will increase over time and eventually grow to \$695 per adult or 2.5 percent of family income, whichever is greater.

MARRIAGE

If you find yourself in love and desperate to take the plunge into marriage, you might be surprised to find out how much the law intrudes on your fairytale. You can't just run off to the nearest chapel and get hitched, several requirements must first be met.



Age

Though there are plenty of jokes about the southern propensity to marry young, Tennessee law is clear that it is illegal for any county clerk or deputy county clerk in the state to issue a marriage license when either of the contracting parties is under the age of 16, unless special consent is granted by a court. Between 16 and 18, parents will have to sign the marriage application stating that they grant their consent to the marriage. Once you're 18, the trouble with age goes away. At 18 you are able to marry without securing consent of your parents or anyone else.

How to get a marriage license

You're both 18 and ready to get married, you've got the rings and the dress picked out. Now what do you need? A marriage license. To get a marriage license you must head down to the local county clerk's office and pay the application fee. There's not much to it, standard demographic information. A marriage license is valid for 30 days from the date it was issued so don't drag your feet too long.

How to get hitched

Once you have your license you need to find an authorized official, oftentimes a member of the clergy, a judge or anyone else who has been authorized to officiate wedding ceremonies. You give this person your marriage license, which they must sign and return to the county clerk within three days of performing the wedding ceremony.

Thankfully Tennessee law is not so specific as to require certain colors or a set number of bridesmaids. The law says that while no formula is required for a wedding ceremony to be legally valid, the parties must declare in the presence of the officiant that they accept each other as man and wife.

Is common law marriage a thing?

Nope, sorry. Though common law marriages are sometimes discussed in movies or on TV, they are not allowed under Tennessee law. A couple can live together for decades and hold themselves out to others as man and wife, but under Tennessee law none of the rights and privileges that come with legal marriages are ever extended to such people.

DIVORCE

Though most marriages start off blissfully, this fairytale can sometimes come to an abrupt end. If you decided to take the plunge and get hitched but later start to have second thoughts, the following primer on Tennessee divorce will let you know in broad strokes how the process works.

Residency Requirement

First things first, in [Tennessee](#) before a person can divorce the issue of residency must be dealt with. This means that before you can file for divorce, either you or your spouse must have been a resident of the state of Tennessee for at least six months. There are different rules for military personnel who move around frequently, but the idea is you must have a solid tie to the state before getting a divorce here.

Grounds For Divorce

The vast majority of divorces in Tennessee take place due to “irreconcilable differences.” This phrase is bandied around frequently and many people may not understand where it comes from. Back in the day, Tennessee law used to require that couples had to find fault before a divorce would be granted, this meant that one or both spouses had to do something listed in Tennessee statutes that then served as the basis for filing for divorce. Thankfully, lawmakers realized this approach made the whole divorce process longer and more combative than it needed to be and the option of a no-fault divorce was created. Couples can now say that “irreconcilable differences” led them to want to split and no one party has to be blamed for the demise of the marriage.

In cases where couples may not be feeling so charitable, it’s still acceptable to file a fault-based divorce. This means you list one of the [following reasons](#) as the basis for your divorce filing: impotence (yep, that’s really listed in Tennessee law), bigamy, adultery, desertion for a year or more, conviction of an “infamous” crime, cruel treatment, attempted murder (obviously), habitual drunkenness or drug abuse and abandonment.

Given all the possible reasons contained in Tennessee law it's likely one or more will justify your desire to split. If so, you then meet with an attorney and draw up a divorce complaint, and the ball will start rolling.

Property Distribution

Tennessee is one of many states that subscribe to the “equitable distribution” approach to division of property. This means that when a couple splits their joint marital property is divided fairly between the two, though, and this is important to note, not necessarily equally. Property that has been acquired prior to the marriage or that was the result of an inheritance or gift are not included in the “marital estate” and thus not subject to division. Judges hearing a divorce case consider factors such as the length of the marriage, age of the couple, earning potential of each spouse and many other issues to decide who gets what. Spousal support (also known as alimony) and child support can also come into play when a judge is trying to divvy up assets.

Though it's possible that a case can get to this stage, the truth is that the vast majority of divorces in Tennessee are handled outside of a courtroom. Couples hire attorneys and work together in a (more or less) cooperative way to divide their assets fairly. This saves everyone a lot of time, money and frustration and avoids the ordeal of having a stranger (your friendly neighborhood family court judge) deciding which party walks away with the sofa.

ALIMONY



When wedding bliss sours and couples decided to divorce in Tennessee, alimony is one especially contentious aspect of the process that many people have questions about. When couples split in Tennessee one party may be required to pay the other party

alimony, also known as spousal support. The following will explain how Tennessee family courts decide whether and how much alimony to award as well as the different varieties of alimony available.

Periodic alimony

In Tennessee there are four types of alimony. First, alimony in futuro, or periodic alimony, is commonly awarded in long marriages and is used to ensure that one spouse is able to maintain a lifestyle similar to the one he or she enjoyed during the course of the marriage. Periodic alimony is usually awarded when one spouse is left economically disadvantaged at the end of a marriage and the money is then used to level the playing field. This money is paid in regular installments, usually monthly, and can be modified down the road.

Rehabilitative

Another form of alimony in Tennessee is what's known as rehabilitative alimony. This money is given to one spouse so he or she can return to school or participate in a job-training program to increase his or her earning capacity. The goal is to rehabilitate the one spouse so he or she can eventually become financially independent. This alimony is usually paid for a finite period of time, usually until the education is complete.

Transitional

Another kind of spousal support is called transitional alimony. This is awarded in cases where one spouse needs time to get their feet underneath them, but where judges do not believe rehabilitative alimony is necessary. Transition alimony allows that person to transition into financially supporting him or herself.

Lump Sum Alimony

The fourth and final variety of alimony awarded in Tennessee is alimony in solido, also known as lump sum alimony. This is a form of support that is most often used to adjust for an unequal division of marital property. For instance, one spouse pays the other spouse a set amount of money, either in one chunk or in installments, to help even out the financial score between the parties.

It's important to note that in Tennessee, none of these varieties of alimony are exclusive. That means that in some cases a family court judge may decide to award more than one type.

How much should the alimony be?

In Tennessee, there is no formula for calculating alimony awards. Instead, the calculation boils down to the judge considering the need on the part of one spouse versus the other spouse's ability to pay. Beyond this simple decision, family court judges in Tennessee can consider a range of factors such as the earning capacity of each spouse, lifestyle of the couple, expenses, education and job training, length of the marriage, age of each party, physical condition of each party, and even fault, as in which party's behavior was responsible for the divorce. Basically, judges are allowed to consider almost everything when deciding whether and how much alimony to award.

CHILD SUPPORT

If you have a kid it's essential to understand that in Tennessee you have a legal obligation to continue financially supporting that child. How much depends on a calculation which we'll discuss below.

Important terms

In Tennessee, child support is paid by the spouse designated the non-primary residential parent, also known as the alternate residential parent. The ARP owes money to the primary residential parent (PRP). Parents who are required to pay the support are known as obligors, while those who receive the support are the obligees.

How is child support calculated?

In Tennessee, like many other states, the amount of child support a parent pays is set by state-created child support guidelines. These guidelines require a certain percentage of the non-custodial parent's income to be designated for the support and maintenance of their children.

This amount is figured by factoring in the number of days each child is scheduled to spend with each parent, each parent's income, any money either parent already pays to support other children from previous relationships and any amounts that either parent pays towards their children's insurance or childcare.

The child support guidelines work by combining the income of both parents, setting a percentage aside as the total used to provide basic support for the kids. The amount needed to support the children is then divided between the parents according to the amount of time each parent spends caring for the children.

How long does child support last?

Thankfully parents are not required to support their children indefinitely. After all, little birds need to learn how to fly at some point. [Tennessee law](#) says that child support is owed until a child reaches the age of 18 or his or her class graduates from high school, whichever occurs later. Exceptions exist for special needs children and a few other very rare cases.



CHILD SUPPORT ARREARAGE

Falling behind on child support payments can be a stressful ordeal to endure for everyone involved. The spouse counting on the support is often stretched financially with few options to collect the badly needed money. The spouse paying the support often falls behind not by choice, but by economic circumstance and similarly feels boxed in. So what happens in cases like this?

Wage assignment

In Tennessee, a wage assignment is available to those who are owed child support. Wage assignments mean that the child support paying spouse's employer will take the child support payment out of that person's paycheck automatically. This functions as a kind of child support garnishment and can be ordered by a judge when one parent is late making child support payments.

What else can happen to delinquent parents?

In cases where a wage assignment is not possible or has not worked, there are other, more punitive options that can be explored to try and encourage the child support paying spouse to cough up the money. This can include having the state revoke certain licenses, including driver's licenses, hunting licenses and even professional licenses such as a medical license. Delinquent spouses can also be ordered to perform community service, even being told to pick up trash along the side of the road.

There are a variety of financial tools that can also be used against those who are behind on child support payments. Bank accounts can be seized, liens can be placed against property and tax refunds can be forfeited, all depending on the circumstances of the case.

How about jail time?

Jail time is very rare, but it is possible that a child support paying spouse who has been found in contempt of court could be sent to jail. Typically those individuals sent to jail are repeat offenders who have flagrantly refused to pay the money they legally owe. Most judges strive to avoid sending any delinquent spouse to jail if it means that person will lose a job, thus making it even harder to ever catch up with their payments.

Such ordeals are unpleasant for everyone and can be complicated to unravel. The best way to avoid the nightmare of child support arrearages is to ensure you stay current with your obligations.

TENNESSEE ORDERS OF PROTECTION

It's our hope that no one ever needs to read this section, but in the terrible occasion that you do it's important to understand how Orders of Protection work in Tennessee. Orders of Protection, also referred to as restraining orders or protective orders, are used by victims of domestic violence and others who fear for their safety. When a judge decides to issue a protective order, the target of the order (often the abuser) is told to stay away from the victim and cease any and all contact with that person for a set amount of time.

Who qualifies for a protective order?

In Tennessee there are three categories of victims who qualify for protective orders, those who have suffered domestic violence, stalking or sexual assault. If you are applying for a protective order based on domestic violence it is essential that the abuser either be related to you by blood or marriage, have resided with you or have had an intimate relationship with you at some point.

How do you get a protective order?

The first step to securing an Order of Protection is to take yourself down to your local county court clerk's office. Protective orders are totally free so don't worry about money. Once at the county court clerk's office you'll need to fill out a form and eventually be asked to appear before a judge. The judge will ask what happened and it's important that you explain clearly why you are in need of protection.

If you are issued a temporary restraining order (TRO) then the order will go into effect as soon as the other party is served. This TRO is an important step in the process to securing a formal protective order and is good because it provides protection immediately and does not require waiting until the formal hearing.

The clerk of court will then inform you when you need to return to court for a longer hearing where your abuser has a right to be heard and present evidence in his or her defense. If you again explain your case to the satisfaction of the judge you will walk away with a protective order.

How does a protective order work?

Though a protective order can be a very good thing for victims of abuse, it's important to understand it is just a piece of paper and cannot, by itself, prevent harm. However, it is a powerful tool for victims because it orders that abusers stay away from you physically and refrain from contacting you. If the abuser violates the protective order, you can then call the police and have the person arrested immediately.

CREDIT CARDS

Credit cards can be tempting for everyone, but especially teens who might view the cards as an excellent way to spend what you want when you want, pushing the pain of payment down the road. While credit cards can be helpful financial tools, they must be used responsibly. The following is a quick primer on all things credit card related:

Age restrictions

First and foremost, those under 21 are heavily restricted in getting their own credit cards. A law known as the Credit CARD Act of 2009 says that those under 21 are prevented from getting a credit card of their own unless they are able to prove they have the money to cover any potential debt. That means if you're under 18 and have no ability to demonstrate income, your chance of getting a credit card is slim to none.

If you're set on getting on a credit card, perhaps to begin building your credit, you have a few other options.

1. Get a job.

First, you can get a job making enough money to qualify for a card. Credit cards want to see a proven source of monthly income that demonstrates you will be able to meet your obligations in the event you rack up bills on their card.

2. Get your parents to co-sign.

If your parents agree that getting a credit card at a young age is worthwhile, and assuming they have good credit, then they can co-sign a new credit card account for you to use. The bank has your parents on the hook so they no longer have to worry about your creditworthiness. Another option is to become an authorized user on one of their existing accounts.

3. Look into a secured card.

If you have some money and want to open a card to begin building a credit history you can also look into secured cards. With secured cards you put money down and the bank will then be willing to issue you credit for this proven amount of money. These cards can come with annual fees that eat into your money, but secured cards can be a good way to start slowly building a credit history.

Whichever way you get a card, as long as it has your name on it and the activity is being reported to the three major credit bureaus, you will be building a credit history and credit score. The longer you can demonstrate good behavior by making on-time payments and avoiding large amounts of debt, the better your credit will become.

CREDIT HISTORY

You've likely heard a lot about credit histories and credit scores and you may vaguely understand that it's important to keep credit scores high. So what does all this really mean? Read on for more information.

Credit history

A credit history is a summary of all the debts a person currently owes as well as a history of how that person has paid previous debts and other regular financial obligations, including bills. The credit history is compiled by credit reporting bureaus that collect data sent to them by the companies where you have credit accounts. These credit bureaus then make that information available to other companies who might be considering extending credit to you, it's for this reason that your credit history is so important. When you apply for a credit card, mortgage or even a phone hookup, your credit rating is checked. Depending on your credit score, lenders will determine what risk you pose to them.

Credit score

When you use credit, you are borrowing money that you promise to pay back within a certain period of time. A credit score is a means of estimating the likelihood that an individual will pay back the money he or she has borrowed. The credit bureaus that issue these scores each use different systems based on different factors to calculate their scores. The primary factors used to calculate an individual's credit score are his or her credit payment history, current debts, length of credit history and frequency of applications for new credit.

So then what's a FICO score?

You have likely run across the term "FICO score" and might be confused about what that is. A FICO score and your credit score are essentially the same thing. FICO is an acronym that stands for the Fair Isaacs Corporation, the company that created the software used to calculate credit scores. Credit scores have a general range of between 350 (extremely high risk) to 850 (extremely low risk). The higher your score, the better.

Do mistakes ever go away?

Unfortunately, credit issues can follow you around for a number of years. Just how long the mistake stays on your history depends on the seriousness of the trouble. Credit issues such as delinquencies can stay on your credit history for seven years while bankruptcies stick around for 10 years.

How can you boost your credit score?

There are a lot of ways to boost your credit score, but the best way is to continually show that you pay your debts off quickly and regularly. Beyond that, try and keep your level of overall debt low and refrain from continually applying for new credit cards.

Finally, check your credit regularly.

It's essential that you pull your credit reports regularly to check for errors or fraud. Everyone is allowed, by law, to get a free copy of their report from **AnnualCreditReport.com** from each of the three major credit bureaus, Experian, Equifax and TransUnion. If you want to view your credit score you will usually have to pay a bit extra.

BANKRUPTCY

Most people know what bankruptcy is but many people have no understanding of the differences between all the various varieties of bankruptcies. Though we certainly hope you don't need to know, the following article will give you the down low on the different types of bankruptcies.

Chapter 7

The Bankruptcy Code contains information about six different varieties of bankruptcies. Some of the varieties are obviously more common than others, with the most frequent choices being Chapter 7 and Chapter 13. A Chapter 7 bankruptcy is referred to as a "Liquidation" bankruptcy. During this process, a trustee takes control over the debtor's assets and property. The trustee then sells assets to pay off creditors.

Chapter 11

Chapter 11 allows business, and in some cases, individuals, to stay in business and pay creditors without having to give up their assets. A court-approved reorganization plan guarantees that creditors will receive what is owed to them, but the business is allowed to continue operating. This reorganization bankruptcy has been seen several times in recent years, including the case of General Motors.

Chapter 13

Chapter 13 bankruptcies allow individuals to pay off their debt over an extended period of time. This option works so that the debtor is able to keep some valuable assets and requires that a plan be made to pay off creditors without the person having to lose his or her entire estate to the bankruptcy trustee.

Additional info

If you'd like to get more information about the different types of bankruptcy, check out the federal courts website at www.USCourts.gov. The website will provide you with background information on what a bankruptcy is, which chapter may be best for you, and the procedure to successfully accomplish the task.

TENNESSEE TENANT RIGHTS

If you're setting out in search of a new place to live, whether it's a rented home or an apartment, everyone has certain rights and is entitled to a certain standard of living. Before you sign on the dotted line, read the following to get a better idea of your rights as a Tennessee tenant.

Basic rights

At the most basic level, renters have the right to a livable home. Renters also have the right to live in that home peacefully, meaning that the landlord cannot unreasonably bother you or prevent you from enjoying your space.

Moving in

When a tenant moves into their new home, the place must be in a safe and livable condition. This means the rental unit must comply with local health and building codes. The plumbing must be in working order, and the electrical wiring must be safe. Floors and walls need to be sturdy and have no gaping holes that could cause injury or let in the weather. If the rental unit comes with appliances such as stoves, refrigerators, heaters or A/C units, these must also be in working order.

If there are any problems when you move in, you need to notify the landlord right away. Put your repair request in writing and save a copy. The landlord should begin these repairs immediately.

Repairs

As we mentioned above, landlords must keep the rental unit in a livable condition and in good repair. The landlord is required to make all the repairs noted in the lease. If the landlord has been notified of the problem and at least two weeks have passed, you are entitled to take the landlord to court and force him to make repairs. A judge can also force the landlord to repay you for money that you spent making repairs the landlord would not fix.

Serious repairs

If the repair is a truly serious one, such as trouble with lights, heat, gas, water or other plumbing problems, then other, more drastic action can be taken. Assuming the problems were not your fault, then you can do one of the following things:

- use rent money to fix things and then deduct this amount from your rent, or
- sue your landlord for the repair money, or
- you can move out while the repairs are taking place and not pay rent on the place being repaired for the period you had to move away.

Eviction

Many people nervous about getting their own place will be comforted to know that landlords cannot legally change the locks or shut off the electricity to make you move. This is true even if the lease says they can do these things. It's even true if you are behind on rent. So does that mean you can stay forever, rent-free? Nope, but before a landlord can evict you they must first give you notice. Notice means warning time. The landlord has to warn you before moving for eviction and then the landlord must go to court to have you put out. The amount of notice depends on how often you pay rent. For example, if you pay rent every two weeks, you are required to receive two weeks' notice.

FAIR HOUSING

As everyone prepares to graduate high school and move on to bigger and better things, getting an apartment and living on your own is one of the biggest steps on the path to independence. Before you jump into signing a lease, take a look at the following discussion of some of your rights in the context of housing.

Fair housing laws

Many people may not know that in Tennessee, and every other state in the country, there are fair housing laws which are aimed at preventing discrimination in the sale or leasing of housing. This means that no rental agencies, apartment companies or private landlords are permitted to base their housing decisions on a person's race, color, nationality, religion, sex, familial status or disability.

The law makes clear that any refusal to rent or sell housing, any unfair conditions or different housing terms imposed on the basis of the above factors is a [violation of federal law](#) and can lead to very serious legal trouble. Everyone deserves housing and the law is clear that we ought to all be treated fairly in the process.

Disabilities

Those with physical or mental disabilities have even further protection when it comes to housing. The law makes clear that if you have a handicap your landlord is not allowed to refuse to let you make reasonable modifications to your dwelling, so long as they are at your expense, if they are necessary to use the housing. Landlords must also make reasonable accommodations in their rules or practices to ensure that disabled individuals can use their housing. For example, an apartment complex with a strict no pets policy would have to allow a visually impaired tenant to keep a guide dog.

JURY DUTY

Now that you're 18 one of the obligations that comes with the territory is serving on a jury if called. If your name is pulled you have a responsibility to accept, unless you have been excused for some special reason. The following are some examples of reasons why a judge might decline to have someone serve on a jury:

- You're related to someone involved in the case.
- You have a financial interest in the outcome of the case.
- You're found to have a bias that would prevent you from deciding the matter impartially.

In some cases a judge may also excuse a person from jury duty if the obligation would cause extreme inconvenience for that person, meaning consideration of family or career factors.

Who can be a juror?

To serve as a juror in a Tennessee court you must be at least 18, a U.S. Citizen and Tennessee resident for 12 months prior to service and not suffering from a disqualifying physical or mental impairment.

What do you get out of it?

Well, besides the sense of satisfaction for having done your civic duty, courts in Hamilton County pay \$13.00 a day to those sacrificing their time for jury service.

How often must you serve?

Under a previous law jurors who served could not be called again for 10 years. Sadly, that requirement changed, and now jurors can be called up for service again every two years.

Penalties

So what if you just don't feel like doing jury duty? Tennessee law has a punishment for that and if you've been summoned, everyone gets the option of putting off jury duty for up to a year. A valid excuse is required after that. Failure to serve without an excuse from a judge will result in your being held in contempt of court and can lead to a \$500 fine.

MILITARY SERVICE

If you're a female you can skip right over this section as it pertains only to the males in your class. However, if you're a guy who's not yet 18 you better pay attention because the Selective Service obligation is no joke.

What is the Selective Service?

FDR signed the Selective Training and Service Act of 1940, which created the country's first peacetime draft and formally established the Selective Service System as an independent federal agency.

From 1948 until 1973, during both peacetime and periods of war, men were drafted to fill vacancies in the armed forces which could not be filled through voluntary means. In 1973, the draft ended, and the U.S. converted to an all-volunteer military. Despite this change, President Carter reinstituted registration with the Selective Service in 1980 over fears of a possible war with the Soviet Union. Registration continues today just in case a sudden need for servicemen arises in a future crisis.

Who has to register?

The law requires virtually all male U.S. citizens (regardless of where they live) and male immigrants residing in the U.S. (permanent resident aliens), to register within 30 days of their 18th birthday. Men who do not register within the 30-day window are technically in violation of the law and should register as soon as possible.

How do you register with the Selective Service?

One way you can register is by going down to your local post office and asking for a "mail-back" registration form. Fill it out and attach the proper postage and you are done. Many high schools have a staff member who can help facilitate registration and you can also register by checking a box on your Free Application for Federal Student Aid (FAFSA) form. Even easier is the new online registration which is quickly handled at www.sss.gov.

What are the penalties for not registering?

While a draft is unlikely, registration is still a legal obligation. Failure to register will cause ineligibility for a number of federal and state benefits including federal jobs and financial aid. Those who fail to register are ineligible for jobs in the Executive Branch as well as positions with the U.S. Postal Service. Men who do not register are also not able to obtain federal student loans or financial grants. In the most extreme cases, the maximum penalty for failing to register with Selective Service is a \$250,000 fine and up to five years in prison.

Tennessee has also passed a series of laws designed to make the lives of those who fail to register difficult. For one thing, Tennessee law requires Selective Service registration before any male can be accepted to a state college or university. Selective Service registration is also a precondition for employment with the state and is mandatory to obtain a state driver's license.

TORTS IN TENNESSEE

What is a tort?

In some cases, torts are tasty French pastries. Sadly, the torts at issue in this article are decidedly less delicious. A “tort” is any act that causes harm to someone’s person, property or even reputation. In Tennessee law, one person (the plaintiff) can sue another person (the defendant) for committing a tort. Successful plaintiffs who win their tort case can receive compensation from the defendant. This compensation, known as damages, is usually in the form of money and is meant to make up for the harm done to the plaintiff.

Three types of torts

Torts generally fall into three main categories: intentional torts, torts based on negligence and torts based on strict liability.

Intentional: Intentional torts occur when harm to another person was committed on purpose. Examples include assault, battery, trespass and defamation: wrongful acts that the defendant knew or should have known would lead to harm due to their action or inaction.

Negligent: Even if the defendant did not set out to harm the plaintiff, he or she can still be liable due to the theory of negligence. Negligent torts occur when the defendant’s actions were unreasonably unsafe or careless. Most personal injury cases, including car accident lawsuits or medical malpractice cases, are based on negligence.

Strict liability: The third type of tort case includes those that are based on the notion of strict liability. This variety does not depend on the carelessness of the defendant, but instead results in liability simply if the plaintiff’s harm was caused by the defendant. Examples include certain product liability cases where no amount of care on the defendant’s part can be used to avoid liability.

Damages

Most people understand that personal injury cases, as the name implies, concern actual physical injuries to people. While this is true much of the time, it’s not always the case. A tort case does not require a physical injury for there to be legal liability. Anyone who suffers injury to their property or their financial interests can also bring about a tort case, even if their physical health was not harmed.

BUYING A CAR

Though many of you may already have a car (thanks mom and dad!), the car purchase process is something everyone will face sooner or later. Some people can be intimidated by the ordeal, worried that they might get ripped off or make a bad deal. The following are some [tips from the Tennessee Motor Vehicle Commission](#) to keep in mind when it's time to buy a car.

Get your money in order.

Before you do anything else make sure to sit down and spend time thinking about costs. The first step of any car search needs to be determining how much you can afford to spend. It's imperative that you do this before you start your search. If you don't, it is often easy to continue to upsell yourself. Before you know it, a search for a Kia ends with you driving off in a Ferrari. To avoid such trouble, look at your budget and come up with a conservative figure that you can afford.

If you'll be financing the car then you should shop around for financing before choosing the vehicle. You should try to get your financing through a local bank or credit union as they typically offer better rates than dealerships. Make sure to ask about interest rates, monthly payments, down payments and other financing terms.

Do your homework.

A car is a major purchase whether it's new or used. Remember, when it comes to buying a car information is power. Before you go to a dealership, spend some time hunting around online to narrow down your options to those makes and models you are most interested in.

Be sure to look vehicles up online to find information about safety, reliability and price. Sites such as Edmunds.com or KBB.com are great places to collect info about cars before visiting a dealership. You can also check out an individual dealer's reputation by looking them up with your local Better Business Bureau.

Now the negotiation.

Once you've settled on the car of your dreams it's time to do the negotiating dance. Understand that the sticker price, also known as the Manufacturer's Suggested Retail Price (MSRP), does not always represent the actual market value of the car. Doing research online before hand can ensure that you understand the real value of the car and it's important to insist that the dealer give you the best possible price. An important tip for negotiating a good deal is to always be prepared to leave. Walking away is the best way to drive home the point that you are not desperate enough to pay top dollar for the car.

Signing the contract.

Before you go signing any contract make sure that any and all promises made by the dealer have been put into writing. Be sure to review all the documents related to the sale and make certain you understand what you're signing. After all, it might come back to bite you later on.

Can I return the car?

You might be used to returning certain things if you change your mind later, but that is unfortunately not the way things are done with cars. People suffering from buyer's remorse often wonder if they are allowed to unwind the deal and take the car back. The answer is usually no, though there are some rare occasions where it might be possible.

Tennessee law is clear that there is no cooling-off period for car purchases. This three-day cooling-off rule is a federal law that is meant to protect consumers from high-pressure sales that occur door-to-door. It does not apply to cars. Once you sign the sales contract you own the car and any return will only take place under two circumstances: 1) the contract contains a clause that allows for such a return or 2) the dealer chooses to allow it. While dealers may decide it's best to keep the customer happy, realize that the law is on their side, and they do not have to agree to a potentially costly unwinding absent fraud or other extraordinary circumstances.



CAR INSURANCE

Now that you're an adult one unfortunate aspect of the new responsibility is the joy of paying bills. Though some of you may already be paying car insurance, others may have had a little help from your parents and thus not fully appreciate the legal obligation to carry car insurance. State law says that every vehicle driven on the highways of Tennessee must meet certain minimum insurance standards. This is known as the state's Financial Responsibility Law.

State minimum coverage

To meet Tennessee insurance standards your policy must comply with the following minimum requirements:

- \$25,000 coverage for one injury or death
- \$50,000 coverage for all injuries or deaths
- \$15,000 coverage for property damage for one accident

It's important to note that these are only minimum standards of liability coverage and there may be other, better plans for you to consider purchasing. For instance, these amounts cover injuries suffered by other drivers, passengers, and/or pedestrians in an accident. They do not typically cover injuries or property damage to the driver found to be at fault in the accident.

Penalties

The state [Department of Safety](#) outlines the penalties for failure to maintain financial responsibility. If you're pulled over in Tennessee or are involved in an accident, an officer is permitted to ask for proof of insurance. Failure to produce the required proof is a Class C misdemeanor and can result in a fine of up to \$100, license suspension and a notation in your record which will prevent you from renewing your vehicle registration, at least until the insurance problem is remedied.



LEMON LAW

The term “Lemon Law” refers to consumer products that are defective or do not function despite several attempts at repair. Lemon Laws, like the one in Tennessee, exist to protect consumers from the harm of faulty products. To find out more about [Tennessee’ Lemon Law](#), read on.

What is a “lemon”?



A “lemon” in this context refers to a vehicle that was sold or leased after January 1, 1987 and has a defect that substantially impairs the vehicle. A car qualifies as a lemon if the manufacturer or dealer cannot repair the vehicle after three attempts or the vehicle is out of service for repairs for a cumulative total of 30 or more days.

How to qualify

For a vehicle to qualify under Tennessee’s Lemon law it must meet the following conditions:

- Your vehicle must have been bought new.
- Your vehicle must have had a minimum of three repair attempts **or** your vehicle must have been out of service for 30 calendar days.
- The Lemon Law claim must be made either during the period of your vehicle’s warranty or within one year of purchase, whichever occurs first.

What happens if you qualify?

If you meet the above conditions then either the manufacturer or dealer is required to replace the vehicle with a comparable vehicle or accept the return of the vehicle from the consumer and refund the full purchase price.

What should you do to file a claim?

The first thing you must do if you are considering filing a Lemon Law claim is keep detailed repair records. Note every problem you’ve encountered, which repairs have been performed and the length of time your car has been unavailable for you to use while it was being repaired. Without this proof it will be much more difficult to hold a dealership accountable. If you have a lemon, you are required to notify the manufacturer of the problem in writing by certified mail. The manufacturer has an opportunity to repair your car within 10 days. If the manufacturer has not responded or refuses to hear your complaint, the final part of filing a claim is to hire an attorney that specializes in Lemon Law claims. The good news for consumers is that the attorney’s fees are generally paid for by the defendant. If the attorney loses your case then they generally do not receive any payment. If, on the other hand, they win, the manufacture is usually responsible for paying their fees.

SEAT BELTS

We've all seen the billboards for "Click It Or Ticket" and have surely heard how important wearing a seat belt can be for improving the odds of surviving a car accident. Though everyone agrees you should buckle up, there may be times where you simply forget or where others in your vehicle choose not to strap in. What happens then?

Tennessee's Seat Belt Law

Tennessee's law is clear that any person who exceeds the child safety seat limits needs to be properly secured by a seat belt when riding in the front seat of a car. "Properly secured" includes both shoulder and lap belts, assuming the vehicle comes equipped with them.

The law also says that anyone under the age of 18 is required to wear a seat belt if they are riding in the back seat. A careful reader will detect a loophole for those over 18 and in the back. Though it is certainly not recommended, it is not technically against the law for an adult in the back seat to not wear a seat belt.

What if you drive an old clunker?

It would have to be a *really* old clunker to make any difference under Tennessee law. The regulations say that the seatbelt law does not apply to cars made before 1968 or SUVs, vans and pickups made before 1972 that do not come with installed seat belts.

Child Safety Restraint Law

Though there's a loophole for adults no such exception exists for those small enough to be in child safety seats. Tennessee law says that kids under the age of 1 who weigh less than 20 pounds must use a rear-facing safety seat. Children between 1 and 3 who weigh more than 20 pounds must use a forward-facing safety seat. Kids 4-8 and under 4'9 must be in a booster seat while those between 9 and 12 are recommended to be in boosters but not required.

What about riding in the back of a pickup?

Believe it or not, the laws regarding driving in the back of a pickup truck are less restrictive than if the child is riding in the passenger compartment of a vehicle. Tennessee law says that if the vehicle is on the interstate system or a road designated as a state highway, a person must be at least 12 years old to ride in the back of a pickup. If the truck is on a city route, a city street or a county road, as long as the kid is at least six years old they can legally ride in the back of a pickup truck.

Penalties

In Tennessee, the seat belt law is a primary enforcement law. This means that police officers can stop and ticket drivers who are not buckled up or who are carrying

passengers without their seat belts. Prior to 2004 officers could only issue tickets to people who had been stopped for other reasons.

Though you can be issued a citation for violating the state's safety belt laws, the maximum fine for a first offense is \$50.

TEXTING

Surprising news recently made national headlines as a study found that drunk driving is no longer the leading cause of death among teenage drivers. For years drinking and driving has been the biggest cause of death among young teens, but now researchers say that has given way to the scourge of texting while driving.

According to researchers, at least 3,000 teens die each year due to texting while another 300,000 suffer serious injuries. Experts say that the problem with texting is that it requires visual, physical and cognitive skills, diverting important attention away from the road and towards your cellphone. While this is dangerous for anyone, it is especially deadly among young drivers who have much less experience operating cars and responding to incidents on the road.

[Tennessee law](#) says that texting while driving is illegal. The law specifically states:

“No person while driving a motor vehicle on any public road or highway shall use a hand-held mobile telephone or a hand-held personal digital assistant to transmit or read a written message...”

The only exception to the texting prohibition is in cases where a car is not in motion at the time of the texting. This means that if the vehicle is in park, texting is permitted. The law also says that police officers, campus security officers and emergency responders are all allowed to text message behind the wheel provided the texting is related to their official duties.

In Tennessee, the crime of texting while driving is what is known as a primary offense. In the context of cell phones and driving, this means that a police officer can stop you and cite you for an observed violation of the texting law. The police officer does not need to have some other primary reason to stop you, such as your taillight being out or speeding.

Some [police forces](#) in and around Chattanooga have begun to use unmarked vehicles to catch drivers texting on the road. Sport utility vehicles and state-owned semi trucks work well for allowing police to look into cars to see if drivers are texting or simply using a radio remote or dialing a phone.

If one of these officers catches you texting, don't worry, you won't be carted off to jail. You will, however, be made to pay some fines. A violation of the texting law is a Class C misdemeanor and results in a fine of \$50 and court costs of now more than \$10.

VOTING

One of the most important signals that a person has reached adulthood is that the person now has the right to vote. It's a great privilege to have a say in your country's direction and be able to elect individuals who best represent your vision for the future is an incredible responsibility that should not be taken lightly.

Requirements to vote

To vote in Tennessee you must be a citizen of the U.S., a Tennessee resident, and you must be registered at least 29 days prior to the election. Tennessee law is also clear that in order to vote you must not have been convicted of an "infamous crime," meaning a felony.

So where do you register?

There are several ways in which a person may register to vote in the state of Tennessee. You may register in person at your local county election commission office, by mail, or at one of the motor voter registration locations (County Clerk offices, Health Department offices, Register of Deeds office or Libraries). Be careful though, it is illegal to be registered in more than one county at a time.

Where do you vote?

Your local county election commission determines your polling place. Your voter registration identification will list the address of where you are supposed to show up and cast your ballot.

What about absentee voting?

Tennessee law permits absentee voting if you are away from your polling location. To vote by mail, the voter must be outside the county of registration during the early voting period and all day on election day. College students who are attending school out-of-state can simply request an absentee ballot from their local election commission at least seven days before the vote. To be counted, the county election commission must receive the ballot by mail no later than the close of polls on election day.



CRIMINAL VS. CIVIL LAW

Many people may not understand that there are essentially two parallel legal systems operating in Tennessee, one handling criminal matters and another handling civil disputes. The differences between the two systems are substantial and include different types of punishments, laws and burdens of proof.

What's criminal law?

Criminal law in Tennessee exists to define behavior that is illegal as well as list corresponding punishments for those behaviors. This includes a multitude of things such as theft, arson or murder. Criminal law exists to create rules so that individuals can peacefully coexist with one another. Any person who decides to break one of these rules can then be prosecuted by the government (and only the government) and, if convicted, can then be forced to pay a fine or even be incarcerated.

What's civil law?

The civil justice system exists to define the rights and duties of one person relative to others. In a civil case, a person or entity that has been injured (the plaintiff) can sue the person they believe is responsible for their harm (the defendant) and seek some form of relief. This relief can take the form of financial damages or injunctive relief (an order to do or stop doing something). You will never face jail time as a result of a civil case.

What about differences in proof?

Given the more serious punishments available in the criminal justice system it is understandable that the burden of proof is higher in criminal cases. Prosecutors in criminal cases must prove that the defendant is guilty “beyond a reasonable doubt.” A reasonable doubt is defined as a doubt based on an actual valid reason. The reasonable doubt standard in a criminal case is the highest burden of proof that must be met in our courts.

In civil cases, the plaintiff only has to show that the person is guilty by a “preponderance of the evidence.” This means that to prove a civil case, a plaintiff needs to show enough evidence to convince the judge or jury that it is more than 50 percent likely. Another way of putting this is that the plaintiff has to show that it is more likely to be true than untrue that his or her claim is valid.



TYPES OF CRIME

Hopefully you never have occasion to learn this firsthand, but there are three main categories of charges individuals can face for illegal conduct. The categories are defined by the seriousness of the offense and the type of punishment that is attached to the offense. The categories, in order of severity, are infractions, misdemeanors and felonies. Infractions are minor civil violations. Misdemeanors are more serious than infractions while felonies are the most serious of all.

Infractions

Infractions are minor offenses that typically involve the violation of a city code, a state or local traffic rule or an administrative regulation. Infractions are civil, rather than criminal offenses, and do not carry any risk of jail time or probation. The punishment for infractions is almost always a fine.

Misdemeanors

Misdemeanors are criminal offenses that carry a sentence of no more than one year behind bars. Misdemeanors are more serious than infractions and may also result in heavy fines. Anyone convicted of a misdemeanor and sentenced to jail will serve his or her sentence in a county or local jail, rather than a state or federal prison.

The best way to view misdemeanors is somewhere in the middle. They are serious offenses that require some punishment but nothing too terrible that would result in locking someone up and throwing away the key. Examples include offenses such as assaults with minimal injuries, possession of marijuana for personal use, and first time incidents of drunk driving.

Felonies

Felonies are the highest level of criminal offenses and they usually result in prison sentences of longer than one year. Felonies include a variety of offenses ranging from possession of larger quantities of drugs to murder. Felonies, much like misdemeanors, are usually divided into degrees, with the higher the level of the offense resulting in a higher level of punishment.

Criminal record

The big lesson from the above discussion of criminal categories is to avoid interacting with the criminal justice system if at all possible. Even though you're young, it's important to understand that misdemeanor and felony convictions will permanently be on your record, forever. Forever is a long time.



WHAT IS “DUE PROCESS”?

A very common phrase to fans of television cop shows, “due process,” is a term used by many and truly understood by surprisingly few. To help with that, let’s dive into the somewhat complicated topic.

What does “due process” mean?

People are always talking about having their “due process” rights violated, but what on earth does that actually involve? The commonly used phrase, “due process of law” means that everyone has the right to

be treated fairly by the government. This idea of fairness is at the center of the concept due process; and the both the substance of the laws and the procedures used to apply the law to citizens must be fair. The notion of due process appears in the U.S. Constitution several times, in the Fifth and Fourteenth Amendments as well as the Sixth Amendment. The following will provide a quick explanation of some of things that the Constitution mentions to provide fairness before and under the law.



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Fifth Amendment Due Process

The due process clause in the Fifth Amendment says that the government is not allowed to try a person twice for the same crime (the notion of double jeopardy). The Fifth Amendment also says that a person cannot be forced to incriminate himself and that a person’s freedom cannot be taken from them without good cause

Sixth Amendment Due Process

The Sixth Amendment guarantees all citizens the right to a fair trial. This means that anyone who has been charged with a crime has the right to a speedy and public trial, meaning no unnecessary delays or secretive punishments. People also have the right to a jury trial in criminal cases, have the right to be told what it is they are accused of having done that was illegal and the right to confront any witnesses who have accused you of illegal activity. The Sixth Amendment also permits criminal defendants to have an attorney and to call witnesses in their own defense.

Fourteenth Amendment Due Process

The Fourteenth Amendment due process clause deals with the idea of equal protection before the law. This means that under the law, we are all considered equals. Issues like race, gender and religion cannot alter our punishment or standing before the law.

MIRANDA RIGHTS

Anyone who has ever seen a movie or television show about the criminal justice system has heard about Miranda rights. Miranda rights are often misunderstood and seen as more powerful than they actually are. The following is a down and dirty discussion of Miranda rights and what they do and, importantly, what they do not do.

What's the point of a Miranda warning?

Miranda rights are intended to warn suspects in criminal cases that they have a right not to incriminate themselves when they are in the midst of a police interrogation. This includes the right to have an attorney present during questioning and the right to remain silent.

How do they work?

Miranda rights require that when a suspect is in police custody and says that they do not wish to speak to the police, the interrogation must end immediately. If the person then asks to speak to an attorney, the interrogation must stop completely and cannot be restarted until the suspect has an attorney present.

When do the Miranda rights exist?

The trick with Miranda rights and what most people frequently misunderstand, is that they only apply to a very narrow set of circumstances. Specifically, they only arise in cases where a suspect is in custody and being interrogated by the police. In such cases if you confess the prosecutor will have to show that the confession was not the product of coercion (meaning that it was not forced out of you). The way the prosecutors demonstrate this is by showing that the suspect was properly advised of his or her Miranda rights and that these rights were knowingly waived.

When do the Miranda rights not exist?

Now that we demonstrated an instance where the Miranda rights do come into play let's discuss the many times that they do not. For instance, police are not required to inform a person of his or her rights when they are voluntarily answering questions. Miranda only applies to cases where the person is under police control and not free to leave. Miranda rights also do not apply to statements that are made spontaneously, meaning things that you blurt out that are not the direct result of a police interrogation. So if you decide to scream out incriminating information without police prompting, your goose is likely cooked.

What happens if your rights are violated?

Another common misconception regarding Miranda rights is that a violation means the charges are instantly dismissed. Sadly that's seldom the case. Instead, what happens is the illegally obtained confession is excluded from evidence presented at trial and the rest of the proceedings continue undisturbed.

RIGHT TO AN ATTORNEY

Under state and federal law certain people have a right to an attorney. Unfortunately this right does not extend to cover every kind of case imaginable. For instance, there is no such right to an attorney in civil matters or divorce cases. The following will explain the cases where the right to counsel does exist.

Legal right to counsel

The right to an attorney is found under the Sixth Amendment of the U.S. Constitution, which says that anyone facing federal criminal charges has the right to counsel. Under the 14th Amendment, suspects also have the right to an attorney if they are facing state felony charges. [Tennessee law](#) is even broader and says, “every person accused of any crime or misdemeanor whatsoever is entitled to counsel.”

When does the right to counsel begin?

It’s important to understand that this right to counsel does not arise the moment you have been questioned by a police officer. According to the law, criminal defendants have the right to an attorney throughout every critical stage of a criminal proceeding, but this only begins once the right is formally “attached.” The right to an attorney only attaches when adversarial judicial proceedings have commenced against the criminal defendant, meaning once the suspect has been formally charged or indicted. Just being questioned or suspected of a crime does not guarantee anyone an attorney.



How do you qualify for a court-appointed lawyer?

Though most people have heard of court-appointed attorneys, getting one is not as easy as just asking for one. After all, the state has no interest in paying for an attorney just so you can save a little money. The right to have a court-appointed attorney only exists when a defendant is truly indigent, meaning the person has no ability to pay for his or her own representation.

It also bears mentioning that if you are entitled to a court-appointed lawyer you do not have the right to pick and choose. Defendants receiving court-appointed attorneys do not have the right to have an attorney of their choosing. If the court finds that the defendant is indigent, the court will assign a public defender to the defendant.

PRISON AND JAIL: WHAT'S THE DIFFERENCE?

Though we surely hope no one reading this ever develops a firsthand understanding of the differences between jail and prison, others might simply be curious. The first thing to understand is that while many people use the terms interchangeably they are actually totally distinct entities with some crucial differences.

Who runs them?

One big difference is that jails are locally operated means of incarcerating criminals. The county where the jail is located typically runs jails. Prisons, on the other hand, are operated by either the state or the federal government (such as the federal Bureau of Prisons).

Location

Given that jails are locally owned are typically much closer to a than a state or federal prison. There 3,600 jails spread across the country less than 100 federal prisons. means federal prisoners will be close to home.



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Sentences

Those criminals kept in jails are almost always less serious offenders because the primary purpose of a jail is to serve as a temporary holding facility. Individuals awaiting trial or who have not yet paid their bail are held in jails, not prisons. In most cases the sentence for someone in jail is less than a year. Prisons are seen as places for long-term confinement and the average length of a prisoner's sentence reflects that difference. Prisoners typically have much longer sentences, facing years or even decades behind bars.

Amenities

Though we aren't talking about nail salons, prisons actually have more amenities than the typical jail. This goes back to the idea that jails are temporary holding facilities and see frequent turnover. Prisons often have work-release programs, educational opportunities, more extensive cafeterias, libraries, etc. Jails have far fewer programs for inmates based on the understanding that most won't be around long to enjoy them.

HOW DOES BAIL WORK?

Anyone who's watched more than one episode of "Law & Order" has surely run across a scene where a stern looking judge pounds his gavel and declares, "Bail is set at \$1,000,000!" The criminal then looks appropriately horrified and begins nervously consulting his or her attorney. Despite the often-huge numbers thrown around, the suspect invariably appears a few moments later free as a bird. So how does that happen? The wonders of the bail system.

What is bail?

The bail system works by releasing a criminal defendant from jail in exchange for money that the court holds until the criminal proceedings are finished. The court uses the money as a kind of financial guarantee that the person will not flee the jurisdiction. If you skip town then you lose the money and have the added pain of even more criminal charges.

The bail system arose because of how long the criminal process can drag on. In many cases, trials don't start for weeks or months after the initial arrest and bail is a way for people, who might actually be innocent, to avoid sitting around behind bars until their trial starts.

How does bail work?

The bail system starts working once a suspect has been arrested and is booked. Once the suspect is booked, he or she will usually have to wait for a bail hearing, unless the crime is not very serious in which case they will be allowed to post bail immediately. The amount of bail set by the judge depends on the severity of the crime, the suspect's previous criminal history, the person's ties to the community, whether danger is posed by releasing the suspect and a host of other factors. Ultimately, the amount of bail is determined solely at the judge's discretion, meaning it's best to avoid being obnoxious.

What types of bail are there?

One type of bail is known as a cash bail, which is just like what it sounds. With this type of bail the suspect must pay the full amount of bail in cash, certified check or money order. The court then holds the cash until the criminal proceedings are concluded at which point the money will be refunded.

Another option is that the judge might decide to release a suspect on his or her own recognizance. This means that it is the person's responsibility to show up to the scheduled court dates and that no dollar figure will be set for bail. This typically only happens in cases with relatively minor, nonviolent offenses where the suspect is not deemed a flight risk.

An alternative to the cash bail, and the one many people take advantage of, is known as a surety bond (or bail bond). Surety bonds can be used for any amount of

money, but they are especially handy in cases where the amount of bail is very high, “Law & Order” high. In these cases a friend or family member often visits a bail bondsman and works out a contractual arrangement to get the money. In these cases the bail bondsman charges a 10 percent premium and usually collects something as collateral for the remainder, such as titles to cars, boats, jewelry, etc. The bondsman then is on the hook if you skip town and thus has every incentive to ensure you attend your hearings on schedule.

It’s by using the surety bond system which only requires putting 10 percent down that so many people are able to get out of jail in cases where their actual bail amount is staggeringly high.

CRIMINAL RECORD

Those individuals in Tennessee with criminal records understand the burden their past mistakes can cause even years down the road. Though you may have paid your debt to society, your past can continue to haunt you and make things like a getting a job or renting an apartment much more difficult. Thankfully, Tennessee now has a law which will allow individuals who have been convicted of certain crimes, primarily misdemeanors and certain low level felonies, to have their criminal records expunged, clearing your record and allowing for a fresh start.

What is expungement?

Expungement refers to the process of sealing arrest and conviction records. In Tennessee, once an arrest or conviction has been expunged, it does not need to be disclosed, including to potential employers or landlords. For example, if an individual was convicted of petty theft and later had the conviction expunged, when he applies for a job and is asked, “Have you ever been convicted of a criminal offense?”, he can honestly answer, “No.” The goal of expungement is to allow those who were convicted of relatively minor offenses to move on with their lives without the permanent stain of a criminal record.

How does expungement work?

The law in Tennessee requires, among other things, that the person file a petition in the county court where he or she was convicted of the offense. The person filing the petition may not have convictions in any other state or federal court besides the ones that they are attempting to expunge. The law also requires that at least five years have passed since the completion of the sentence imposed after the person’s conviction.

Who is not eligible for an expungement?

In Tennessee, anyone who has been convicted of any violent offenses, offenses involving children including neglect or abuse, crimes that require registration as a sex offender and even convictions for driving under the influence are not eligible for expungement.

VICTIMS' RIGHTS

Though most discussions of criminal law revolve around the rights of the suspects, it's important to understand that victims in Tennessee also have rights. Though a terrible thing happened, it can be good to know that you are not powerless and that you are entitled to certain treatment during the otherwise difficult process.

What are your rights as a victim?

Back in 1998, the [Tennessee Constitution](#) was amended to include a provision concerning victims' rights. The language is found in Article 1, Section 35 of the state's Constitution. The constitutional amendment says that victims have the right to discuss their case with prosecutors and to be present at all stages of the process where the defendant also has the right to be present. Victims have the right to be free from intimidation and harassment throughout the criminal proceeding and to be informed of all proceedings relating to the release, transfer, escape or recapture of the defendant. Victims also have the right to be heard at all critical stages of the criminal process and similarly have the right to a speedy trial and a prompt resolution of the criminal matter. Finally, the victim has the right to restitution from the defendant.

Can you sue?

Though the crime happened to you, only the government is allowed to press charges and prosecute criminals for their illegal activity. Though victims cannot bring criminal suits against their attackers, they are absolutely entitled to bring a civil lawsuit for whatever damages they have suffered from the crime.

Are you entitled to financial compensation?

Though it may come as a surprise, the victims of some crimes, especially those involving personal injuries or terrible violence, can actually receive financial compensation from the government's [Criminal Injuries Compensation Program](#). This program was designed to provide financial assistance to innocent victims or the surviving family members of victims who suffered serious trauma due to violent crime. Eligible crimes generally include things like murder, aggravated assault, sexual assault, robbery and drunk driving.

WHAT HAPPENS DURING A TRAFFIC STOP?

Though everyone appreciates all the hard work police officers do to keep us safe, it can be understandably nerve-racking when their jobs come into close contact with

you. Though the issue may only be a minor traffic violation, it's important to understand what goes on during a traffic stop and what your legal rights and obligations are.

How should I act?

The key to dealing with the police in any situation is to be respectful. Remember, police officers are normal people and behaving rudely or aggressively will likely only make a bad situation much worse. Be polite and avoid developing an attitude, that alone can help ease the tension and speed the process along.

I've been pulled over, what should I do?

If you've been pulled over make sure to stop your car as far out of the lane of traffic as possible. Stay inside your vehicle and keep your hands in view at all times. Police officers have obvious reasons to worry if you start acting jumpy.

You'll likely be asked to provide identification and insurance information, do so promptly and keep calm, no reason to start acting guilty if you've done nothing wrong. If you've committed a relatively minor infraction the officer may inform you of this and write a citation. Don't argue, this is not the time or place for that. If the citation has been issued then the incident is over and you can proceed on your way.

Search based on probable cause

If you were pulled over for a simple traffic violation and the officer noticed something illegal while you were stopped they may have probable cause to search your vehicle and possibly even arrest you. If the officer does have sufficient probable cause, they are allowed to search the entire vehicle, including the trunk and any bags inside the vehicle. The police are also allowed to search the vehicle if they have reason to believe you are armed and dangerous. You should understand that this might serve as a basis to discover other potentially incriminating evidence.

Search based on consent

If you are pulled over and the officer is suspicious about possible illegal activity but does not yet have sufficient evidence to conduct a search based on probable cause, they may simply ask you if they can search your vehicle. You are well within your rights to refuse. Be respectful, but you are absolutely allowed to say no.

If you think you want to allow the officer to search your vehicle, be very careful before you give the officer the go ahead. If you consent to a police search of your person, car, bags or anything else, you have given up your right to argue that the search was illegal. Giving consent waives your Fourth Amendment rights regarding anything found in that search. No take backs allowed.

DRIVER'S LICENSE POINTS SYSTEM

Tennessee's driver's license [points system](#) was developed as a means of keeping track of unsafe drivers. The number of points on an individual's Tennessee driver's record is monitored by the Driver Improvement Section of the Tennessee Department of Safety. We'll discuss quickly how the juvenile points system works and then move on to the more severe adults point system.

General info

A conviction for a traffic violation in Tennessee can add between 1 and 9 points to your driving record. Most speeding tickets (25 mph over the limit or less) and right-of-way violations result in between 1 and 4 points on your record. Major traffic offenses, like excessive speeding and reckless driving, can add 8 or 9 points. It's important to note that getting points on your license not only results in potential driving record issues, but will almost certainly result in increased insurance premiums. Though a few points may not seem like such a big deal, just wait until your car insurance renews.

Juvenile points system

Drivers less than 18 years of age that accumulate six or more points on their driving record within any 12 month period are sent a notice of proposed suspension from the Department of Safety and are placed in the Driver Improvement Program. The driver will then be required to attend an administrative hearing, with their parent or guardian present, to discuss the points assigned to their driving record. Certain actions, such as a license suspension, could be imposed based on the outcome of the hearing.

Adult points system

Under the adult system, if you accumulate 12 points on your driving record within 12 months, you'll be required to attend an administrative hearing. If you attend the hearing, you may be given the chance to take a defensive driving class to avoid a suspended license. If you fail to attend the hearing, your license will almost definitely be suspended for between six and 12 months. Before reaching this level, drivers with six to 11 points are sent an advisory letter to warn them that they are approaching the 12 point limit and at risk of losing their license in the event of another traffic violation.

How long will points stay on your license?

Points will stay on your driving record for two years.

What's a sample point schedule look like?

Here's an example of one schedule for a variety of traffic violations. There are many more, and each is different depending on the kind of moving violation at issue. To see more, check out the following website: <http://www.tn.gov/safety/values.shtml>.

Moving Traffic Violations	
Violation	Points
Tickets and Court Abstractions where speed not indicated on source documents	3
Speeding 1 through 5 mph in excess of speed zone	1
Speeding 6 through 15 mph in excess of speed zone	3
Speeding 16 through 25 mph in excess of speed zone	4
Speeding 26 through 35 mph in excess of speed zone	5
Speeding 36 through 45 mph in excess of speed zone	6
Speeding 46 mph and above in excess of speed zone	8
Reckless Driving	6
Signs and control devices - Failing to obey traffic instructions	4
Improper passing - passing where prohibited	4
Wrong way, side or direction	4
Following improperly	3
Failing to yield the right-of-way	4
Making improper turn	4
Violation of driver license or certificate restrictions	6
Reckless endangerment by vehicle, misdemeanor	8
Miscellaneous traffic violations failing to maintain control, improper control, etc., or any offense involving the operation of a motor vehicle not herein specified	3
Leaving the scene of an accident (property damage only)	5
Failure to report an accident (property damage only)	4
Failure to yield to emergency vehicles	6
Failure to stop at railroad crossing	6

HOW MANY DRINKS EQUAL DRUNK?

Those who are old enough to drink often wonder how many glasses of beer or wine they can have before becoming legally impaired. It's a tough question to answer and depends on a multitude of factors including diet, height, weight, gender and metabolism. That being said, conventional wisdom says that for most people drinking one alcoholic beverage per hour will give your body enough time to digest it safely, keeping your BAC below the legal limit.

What qualifies as one drink?

The above wisdom applies to what are known as “standard drinks.” So what on earth is a standard drink? A standard drink is defined by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) as half an ounce of alcohol. This means that the amount varies based on the alcohol content of the beverage. For example, the NIAAA says that one standard drink includes the following: one 12 oz. beer, one 5 oz. glass of wine, or one 1.5 oz. shot of distilled spirits.

So how many drinks does it take to be drunk?

Though there is no easy or precise way to answer how many drinks it takes for a person to be legally impaired (there are far too many variables that impact BAC), there are some fairly standard rules of thumb.

If you weigh around 100 pounds, you can generally only consume one serving of alcohol per hour before being at or near the 0.08 level. A man who weighs about 180 pounds can typically consume four standard drinks in an hour before reaching the legal limit of 0.08. Someone weighing closer to 140 may not even be able to have three standard drinks in an hour before being too drunk to drive.



WHAT IS BAC?

Blood Alcohol Concentration

Almost everyone who ever sat through a health class has heard the term “BAC.” Though you may have heard it used before you might not fully understand exactly what it means. First things first, BAC stands for “***Blood Alcohol Concentration***”, and it is a unit of measuring how much alcohol exists in a person’s system.

BAC is not meant to determine exactly how much alcohol a person has consumed, but instead is designed to reveal the percentage of alcohol in their system. This number is supposed to be even more important because this percentage is intended to equate with the extent of impairment that person is operating under.

How is BAC determined?

As we’ve noted, BAC represents the amount of alcohol in a person’s blood. As a result, the number is expressed in milligrams of alcohol per 100 milliliters of blood. The number is also written as a percentage, so the legal limit is actually 0.08 percent.

What factors can impact a person’s BAC?

The most obvious factor that can impact your BAC is the amount of alcohol you have consumed. Beyond the number of drinks you’ve had, your BAC can also be affected by your height, weight, metabolism, body fat percentage, diet, what meal you just ate (or didn’t eat) along with many, many other things.



FIELD SOBRIETY TESTS



Though the hope is that most of you can avoid the unpleasant experience of being pulled over on suspicion of drunk driving, everyone should understand what happens in that unfortunate event. Those pulled over for suspected impaired driving will likely experience the Standardized Field Sobriety Test (SFST).

So what is Standardized Field Sobriety Test?

The field sobriety test was first created way back in the 1970s and has been in use ever since. The SFST has been found to serve as a reliable indicator for police officers to detect impairment. For decades the tests have been admitted into court as evidence of intoxication and judges have routinely recognized their accuracy.

What does the SFST involve?

The SFST has three parts: the horizontal gaze nystagmus test (HGN), the walk-and-turn test (WAT) and the one-leg stand test (OLS).

HGN

The first test occurs when officers look for involuntary movement in the driver's eyes. This movement naturally occurs as people look from side to side, but the movement can be dramatically more pronounced in those who have been drinking. Officers keep an eye out (ha!) for especially twitchy eyes and for any sign that the driver cannot smoothly follow a moving object.

WAT

Another commonly used field sobriety test is the walk-and-turn. The WAT is fairly obvious, given the name, in that it requires drivers to walk and turn while following a variety of instructions from the arresting officer. Drivers who are intoxicated tend to have a hard time performing the tasks required of them. Police officers are trained to look for issues with balance, bizarre or halting steps and a failure to follow instructions.

OLS

The final component of the SFST is arguably the one most commonly seen on television cop shows: the one-leg stand. In this test, drivers must stand for around 30 seconds while balancing on one foot. Officers watch for swaying or hopping, viewing either as an indication of impairment.

So how accurate is the SFST?

While experts agree that no one test by itself definitely shows impairment taken together the three tests are seen as very reliable. The government claims that the three tests, when administered together, have 90 percent accuracy in detecting impairment.

IMPLIED CONSENT

Though it's a strange concept to some people, Tennessee law says that if you have a Tennessee driver's license you have automatically granted consent to be tested for the presence of drugs or alcohol if an officer believes you may be driving under the influence. The forms that you signed to get your license include a waiver which grants the power to states to test your blood for the presence of intoxicating substances.

[Tennessee's implied consent law](#) says that if a person charged with a DUI refuses to submit to a blood, breath, or urine test to determine the drug or alcohol content of his or her blood, he may also be charged with an implied consent violation. Though this may seem unfair, it's important to note that Tennessee motorists do not have a right to speak with an attorney or anyone else before deciding whether or not to submit to a chemical test.

If the officer has a reasonable basis to believe that you are impaired behind the wheel (meaning that there is probable cause) then chances are you will be arrested. Once you are arrested, the officer will likely explain that your license will be suspended if you refuse to submit to a chemical test. The decision is then up to you.

Though you are allowed to refuse to submit to such a test, you should understand that the implied consent laws mean that you agree to certain automatic penalties in the event of a refusal. The penalties for a first refusal begin with suspension of your license for one year, unless the current refusal involved an accident where someone else was seriously injured or killed. For your second refusal, the suspension will be for two years. If there was a serious injury, then your suspension will last for two years. If someone died, then your suspension will last for five years.



UNDERAGE DRINKING AND DRIVING

Everyone knows drinking and driving is a bad idea and can lead to an arrest and criminal conviction in cases where a person's blood alcohol concentration (BAC) exceeds the legal limit. In Tennessee (and every other state in the country), the legal limit is 0.08 percent. This figure, percentage, refers to the amount of legally allowed to be in a person's operating a motor vehicle. Though the is 0.08 percent, it's important to this only applies to those drivers 21 and



measured as a alcohol that is bloodstream while limit in Tennessee understand that older.

Underage intoxication in Tennessee

For drivers younger than 21, Tennessee law has what's known as a zero tolerance policy. This means that any driver younger than 21 who is pulled over and found to have a BAC greater than 0.02 percent will be charged with drunk driving.

This difference, between 0.08 and 0.02, might not seem so important, after all, who ever cared about a .06, right? Wrong. Experts say that an average height male weighing around 180 pounds can consume between three and four alcoholic beverages before hitting the 0.08 legal limit. Now imagine that same 180-pound man is under 21; it will take only one drink for him to hit 0.02 percent. The difference is even greater for women who can hit 0.02 percent BAC with less than one full drink.

Penalties for underage drunk driving

An underage driver who is found to have a BAC greater than 0.02 percent faces serious criminal penalties if pulled over in Tennessee. If convicted, an intoxicated underage driver faces license revocation for a minimum of one year, thousands of dollars in fines, a mandatory alcohol counseling program and possibly even jail time. The exact penalties depend on the level of intoxication at the time of the arrest, whether anyone was injured and whether the incident is a first time or a repeat offense.

While a DUI and all the short-term consequences are bad enough, it's important to understand that other repercussions can be felt even years later. Many graduate schools require that applicants reveal past criminal convictions, which can negatively impact your chances of admittance. Employers frequently conduct background checks to uncover drunk driving incidents which can act as barriers to finding a job. It can be hard to keep perspective when you're out having fun with your friends, but it's important to remember that even one mistake can follow you for years to come.

BOATING UNDER THE INFLUENCE

While you might think that fun on the lake and some cold beers sounds like a good time, the fact is many people are unaware that laws about operating a boat while under the influence are taken just as seriously as those concerning a motor vehicle.

[State law says](#) that it is unlawful to operate any sail or powered vessel while under the influence of intoxicants or drugs. Notice some important words here. First of all, the prohibition is not against alcohol alone. The statute specifies that a person can be arrested and charged with BUI (boating under the influence) if that person is under the influence of any intoxicant, including narcotics, pain pills and even marijuana.

Another important clause in that sentence specifies that BUI laws apply to certain kinds of watercraft, specifically, those powered by engines or sails. That means that something like a kayak would be exempt for drunk boating laws, though this should not be taken as an invitation to get drunk and go kayaking. The point is that you should understand you could be charged for operating a number of motorized watercraft while under the influence, including things like jet skis.

Now that you see how seriously the law views drunken boating, you might be wondering whether alcohol is allowed on board a boat at all. The answer is yes; booze is perfectly legal to have on a boat in Tennessee. The state's open container laws only apply to motor vehicles, not boats.

That being said, the state's BUI laws are every bit as stringent as the state's DUI laws. According to Tennessee statutes, a person is guilty of BUI if he or she is found to be operating a boat with a BAC of 0.08 percent or greater. Depending on the facts of the case, a person may be required to serve up to 11 months and 29 days in jail if convicted of a Tennessee BUI. That person can also be fined an amount up to \$2,500 for even a first-time offense. Once convicted, the person may also be prohibited from operating any boat for a period of between one and 10 years.

Also like driving, everyone operating a boat on Tennessee waterways is legally presumed to have given their consent to chemical tests to determine the alcohol or drug content of their blood. This implied consent law means that if arrested for a Tennessee BUI charge, a person who refuses to take a chemical test to determine the alcohol or drug content of his or her blood may also be charged with a violation of the boating implied consent law. Violation of this law requires the suspension of operating privileges for a period of six months in Tennessee.



JUVENILE OFFENDER ACT

1. Applies to juveniles convicted of:
 - possession, use, sale, or consumption of any alcoholic beverage, wine or beer
 - possession, use, sale, or consumption of or any controlled substance
 - carrying of a weapon on school property
2. You will lose your license for:
 - AT LEAST 1 year or until your 17th birthday (whichever is LONGER) if it is the first offense
 - AT LEAST 2 years or until your 18th birthday (whichever is LONGER) if it is the second offense or more
 - The Court will take the license away at your Court hearing.
3. You may be eligible for reinstatement, at the discretion of the Court after:
 - You complete one or more of the following Court ordered programs:
 - drivers safety course
 - early intervention program
 - youth alcohol safety program
 - weapons safety course
 - drug and alcohol assessment

AND 90 days have passed if it is the first offense

OR 1 year has passed if it is the second offense or more

If the conviction is for operation of a motor vehicle while impaired, you will not be eligible to get your license reinstated prior to the above time periods in #2.

4. You may be able to get a restricted license, at the discretion of the Court, IF:
 - It is the 1st offense
 - OR it is the 2nd or more offense and 1 year has passed or you have reached 17 (whichever is later)
 - AND you can prove there is an economic, health care, or educational hardship
 - AND no public transportation is available
 - AND you will only be able to drive to school or work (not to social events or extracurricular activities)
 - AND if it is for work, you must prove the work is necessary for the well-being of the family
 - AND you must carry the restricted license on you at all times
 - AND The Court Order for a restricted license will state exactly what time you are allowed to drive and exactly which places you are allowed to drive to/from.
You will still have to pay whatever fees owed and complete any Court Ordered programs.

SOCIAL HOST LIABILITY

In the words of the famous Beastie Boys song, sometimes you gotta fight for your right to party! Though most high schoolers are eager to have a good time, few likely realize that their right to party is actually heavily legislated here in Tennessee. Plenty of laws already on the books dictate just how much of a wild time can be had; especially in cases where adults help facilitate the fun. Arguably the most important legislation on the subject is known as the [Social Host Liability Law](#).

Social Host Liability

The aptly named measure went into effect in July of 2009 after legislators made a big push to crack down on cases where adults helped children throw wild and occasionally deadly parties involving underage drinking. The law says that those adults who allow underage drinking at parties they host can face fines and even jail time if one of the underage drinkers injures or kills themselves or others. The law is designed to ensure that grownups suffer stiff penalties for the damage caused by drunk underage individuals.

What does the law say?

Specifically, the law says that it is a crime for an adult to knowingly allow underage drinkers to consume alcoholic beverages on property that they either own or occupy. This means there's no loophole for renters; any adult hosting a party anywhere is potentially liable.

Some of you might be wondering if it would be OK to find an adult to buy the booze and have the party elsewhere. Sorry, the law is already two steps ahead and covers that issue specifically, saying that it is a criminal offense to give or buy alcoholic beverages "for or on behalf of any minor." Those legislators think of everything! The law that was in place prior to 2009 said that adults would only be prosecuted for contributing to the delinquency of a minor in cases where the underage drinkers were younger than 18. The Social Host Liability Law raises the limit of liability to anyone younger than 21 and significantly stiffens the penalties faced by responsible adults.

What's the punishment?

The law should send a pretty chilling message to any parent eager to be seen as "cool" in their kids' eyes. Even the most awesome of all parties is not worth the risk of serious jail time that would come with a conviction. An adult who is found to violate the law could wind up paying \$2,500 in fines and face up to 11 months and 29 days behind bars, a stiff price to pay for a good time. In addition to such extreme penalties, adults can also have their driver's licenses revoked for up to a year and be ordered to engage in community service.

BOUNCED CHECKS



Congratulations! You're 18! Now that you're an adult you get all the rights and responsibilities that come with the territory. One of the biggest is financial responsibility. Though you may not face the challenges of paying rent, buying groceries or providing for a family just yet, everyone has expenses and it's crucial that you learn to manage your money. Though it may surprise you, it's possible that financial mismanagement could

lead to legal trouble.

What's a bounced check?

"Bounced check" is a slang term for a check that cannot be processed because the writer has insufficient funds. When there are insufficient funds in an account, rather than process the transaction, the bank will "bounce the check", meaning they will refuse to honor it.

What happens after a bounced check?

Under Tennessee law, the person receiving the bad check can charge 10 percent interest per year on the amount of the check until it is paid. The person is also legally authorized to add on any and all service charges and any reasonable attorney fees that were necessary to collect the amount owed. In many cases, especially those where your bank account comes with overdraft protection, your bank will simply allow the transaction to proceed and then charge you a fee for covering the insufficient funds.

If you bounce a check are you going to prison?

Calm down, if you run a little low on money it doesn't mean you need to start envisioning yourself in a prison jumpsuit. Many times, bad checks are written inadvertently by people who simply were unaware that their bank balances were too low. As a result, it is always a good idea to have a small overdraft line of credit to cover such situations, or at the very least, keep a close eye on your balance near bill-paying time.

Criminal penalties

In certain cases passing a bad check can lead to jail time. In cases where "[worthless checks](#)" were intentionally passed, a person can be subjected to jail time. However, this does not apply to those whose checks bounced only due to an oversight or to those who paid the bad check within 10 days of being alerted to the problem.

For those who are genuinely trying to steal things, the law hands down some harsh punishments. In Tennessee, passing a worthless check is treated the same as theft.

The amount of money on the check on the date of issue represents the value of the theft for purposes of assessing the punishment. That means passing a bad check for less than \$500 can result in a Class A misdemeanor while checks for more than \$60,000 can lead to Class B felony charges.

CYBERBULLYING

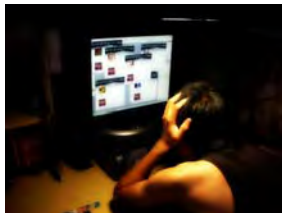
A growing concern among parents and some legislators is the danger of cyberbullying. Reports of children committing suicide due to the taunts directed at them by online bullies led legislators in Tennessee to recently pass specific laws addressing the problem of cyberbullying and criminalizing such conduct.

According to legal experts, cyberbullying is defined as bullying that takes place using electronic technology. Examples of cyberbullying include mean text messages or emails, rumors sent by email or posted on social networking sites, and embarrassing pictures, videos, websites, or fake social media profiles.

Tennessee legislators passed a bill in 2012 specifically designed to address the problem of cyberbullying. The law adds to the legal definition of harassment, the sending of an image through electronic means “with the malicious intent to threaten” another person. This new language is actually more restrictive than Tennessee’s first attempt at an anti-cyberbullying law. The previous version of the law said it was illegal to send electronic communications that were meant to frighten others, a fairly low hurdle to clear.

The revised state law was designed to protect victims of cyberbullying while also ensuring that the free speech rights of students remained intact. Rather than criminalize all nasty online remarks, the law focuses only on cyber-harassment that is intentionally threatening.

Minors who are found guilty of cyberbullying could be forced to do 30 hours of unpaid community service, a punishment that the bill’s sponsor says he hopes to make more severe in the future. A violation of the law by an adult would be a Class A misdemeanor punishable by up to a \$2,500 fine and a year in prison.



DEFAMATION

Though it's not something most people encounter on a regular basis (thankfully), the fact is defamation does occur and may even be occurring with more regularity given the rise of the Internet. The perceived anonymity of the online world has led some people to make vile and untruthful statements about others, which can result in a defamation lawsuit.

What is defamation?

Defamation exists when a person's reputation has been harmed and is defined as the making of false statements, either oral or written, about another person. There are two types of defamation in Tennessee: libel and slander.

Libel

Libel covers any form of defamation that is written. This includes newspaper articles, letters and even online comments. It's important to note that you cannot simply sue someone for libel because they have said something annoying, embarrassing or offensive about you. Instead, the legal test for libel is if the statement holds you up to public ridicule.

To prove libel the injured party (the plaintiff), has to prove that the defendant either knew the statement was false or that he or she failed to take the proper steps to determine whether it was true. A defendant can respond by proving that the statement made was true.

The exception to this is if the plaintiff is a public figure. It can be tricky to determine who qualifies as a public figure. Politicians or famous actors definitely do, but suffice it to say that public figures have a much more difficult time proving a defamation case.

Slander

Slander is almost exactly like libel except that it covers those defamatory statements that are spoken rather than written.



FAKE IDs

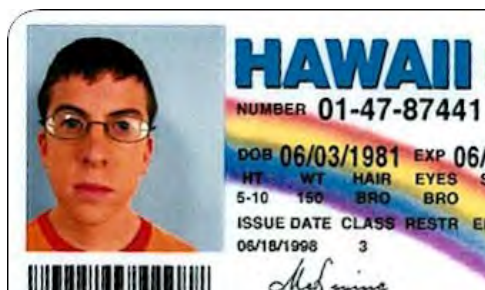
Some high schoolers just can't wait to grow up and assume all the freedoms that come with older age. Those with friends in college might have a special interest in acquiring a fake ID to help get them into bars or clubs with age restrictions. You might not think there's much harm in using a fake ID, especially if you don't intend to drink and just want to use it to hang out with friends. Unfortunately, Tennessee law views the matter quite seriously.

The law in [Tennessee](#) says that it is illegal for anyone 21 or younger to knowingly make a false statement or present false identification to any person engaged in the sale of alcoholic beverages. This means no flashing a fake ID to a bouncer or bartender.

The law lays out pretty harsh punishments to underage individuals caught using a fake ID. In most cases, a misdemeanor citation is given instead of actually arresting the person, but a citation has the same legal significance of being physically arrested. To the surprise of many, a charge of false identification is a Class A misdemeanor and carries a possible sentence of up to 11 months and 29 days behind bars.

Pretty scary stuff, right? Well, don't lose too much sleep because the truth is it would be very unusual for a judge to hand down such a harsh punishment to an underage offender who was only trying to sneak into a bar. Instead, probation is most likely and jail time is rarely if ever considered.

Though using a fake ID doesn't necessarily mean you're headed to the big house, it's also no laughing matter. Tennessee law clearly states that anyone found to be using a fake ID will have their real driver's license automatically suspended for one year. Underage individuals caught with fake IDs also face community service and fines of between \$50 and \$200.



GUNS



Though many families in Tennessee already own guns and other weapons, state law says that you must be 18 years old to purchase rifles or shotguns on your own. Now that you're 18, the law recognizes that with age comes some degree of wisdom and you have been entrusted with the responsibility of owning potentially deadly weapons.

If you've been waiting to get your hands on a gun and think that now that you're 18 you're free and clear, not so fast. There are still some legal stipulations you must contend with. First off, you're not yet old enough to buy a handgun. Federal law says you must be 21 or over before you are legally allowed to buy your own handgun.

How do you get a carry permit?

To obtain a handgun carry permit in Tennessee, you must first successfully complete a handgun safety course offered by a handgun safety school that has been certified by the Department of Safety.

You can then file an application at any Driver Service Center in the state. You will need to bring with you the original copy of your safety course completion certificate, proof of U.S. Citizenship, photo ID such as your driver's license, and \$115 permit fee. Assuming there are no problems with the application, you should receive your permit within 90 days of the date the state receives your application.

Where can't you go with your weapon?

Even though a person has a permit and is authorized to carry a firearm under Tennessee law, there are still restrictions as to where the weapon can be carried. The following are some examples of times and places that are off limits:

- Any room in which judicial proceedings are in progress;
- Any public or private school building or bus;
- Any airport;
- Many public parks and public recreation centers are off limits and will have signs posted explaining the rule.
- When you're drunk; Tennessee law says that you cannot carry a weapon while under the influence of alcohol or other intoxicating substances.

Violations of these rules can lead to a variety of criminal charges, including serious felonies.

HATE CRIMES

Hate crimes are taken very seriously in Tennessee and can result in enhanced criminal punishments for those convicted of what are known as “bias motivated” crimes. Beyond these criminal penalties, Tennessee law is clear that victims of hate crimes are also allowed to seek special civil damages from their attackers.

In Tennessee there are three main hate crimes statute on the books. The first law is from 1989 and makes it a crime to intentionally desecrate a place of worship or burial site. A year later Tennessee lawmakers passed another law that states that it is illegal to intimidate others from exercising their civil rights through injury or threat of injury. Those responsible for this intimidation face Class D felony charges as well as a possible civil suit by their victims.

Finally, in 2008 Tennessee passed a comprehensive piece of hate crime legislation that more closely resembles federal hate crimes laws. The 2008 law says that defendants can have their sentences enhanced in cases where the victim is vulnerable due to age or physical or mental disability. The law goes even further and says that defendants will also receive an enhanced sentence if it can be determined that the victim was intentionally selected due to their race, religion, color, disability, sexual orientation, national origin, ancestry or gender.

According to the Tennessee Bureau of Investigation, 297 offenses were reported as “bias motivated” in the state as of last year. More than one third of these cases were found to be racially motivated, representing the largest category of hate crime prosecutions. Experts have noted a rise in recent years in hate crime prosecutions as law enforcement officials are eager to use whatever tools they can to put criminals away for as long as possible.



HAZING

Though movies and television shows sometimes depict hazing as a rite of passage for those attempting to join certain exclusive organizations, the practice is no laughing matter under Tennessee state law.

University code of conduct

It would likely surprise many people that state law requires that every public or private college and university in Tennessee create and implement a policy which prohibits hazing. That means every single institution of higher learning in the state prevents fraternities and sororities, as well as other student groups and athletic teams, from hazing new or existing members.

State law

The law in Tennessee says that each higher education institution is required to adopt a policy prohibiting hazing by any student or organization operating on campus. The policy must then be distributed to all students at the beginning of each school year and time must be spent discussing the policy during orientation.

The law defines hazing as “any intentional or reckless act in Tennessee on or off the property of any college or University by one (1) student acting alone or with others which is directed against any other student.” To qualify as hazing the conduct must either endanger the mental or physical health or safety of the student or it must coerce the student into endangering his or her own mental or physical health or safety.

What’s so bad about hazing?

Some hazing may seem harmless, so what’s the problem? The fact is that hazing is an act of power and control and results in the victimization of others. Hazing is degrading in the best of cases and can be downright abusive in the worst. Given its nature, hazing is a premeditated act and not a mere accidental occurrence. Thousands of young people from across the country have been injured, suffered alcohol poisoning or even died as a result of hazing that may have started off as good natured.

What if someone agrees to participate in the hazing. Does that make it better?

In states like Tennessee where laws against hazing exist, consent of the victim cannot be used as a defense in any subsequent civil lawsuits. This is because even if someone agrees to participate in a potentially dangerous activity, it may not be genuine consent given the impact of peer pressure and the victim’s desire to belong to the group.

IDENTITY THEFT

Identity theft is a serious crime in Tennessee that impacts far more people than most realize. Given today's technology, identity thieves generally commit crimes with more ease than in the past and can use someone's personal identification to wreak financial havoc, securing loans, accessing bank accounts, renting property and even obtaining employment under someone else's name.

Definition of identity theft

Tennessee law defines identity theft as when a person knowingly obtains, possesses, buys or uses the personal identifying information of another without permission. This personal information must have been used with the intent to commit an illegal act, which can include obtaining credit cards, goods, services or medical information based on a false identity.

Punishment for identify theft

Identity theft crimes in Tennessee carry a variety of punishments including substantial fines and even jail time. Identity theft is a Class D felony and carries a prison term of between two and 12 years. Identity theft trafficking is even more serious, a Class C felony, and comes with a prison sentence of between three and 15 years. Those convicted of engaging in identity theft also face seizure of any property gained from their crimes including money, cars and even homes.

How to protect yourself

Given the prevalence of identity crimes it's essential that people treat their personal information as the valuable asset that it is. Be careful who you reveal certain information to, being sure to never give out credit card numbers or Social Security numbers to companies or individuals you do not know. It's also a good idea to shred any mail that contains sensitive information and be wary before giving out personal data online.

If your wallet is ever stolen it's critical that you notify your bank and credit card companies as soon as possible. This way the companies can freeze your accounts and prevent further harm from occurring. You can also file a report with the three major credit reporting agencies, known as a fraud alert, which can help companies be aware in the event of unusual activity on your credit history.



MARIJUANA

Marijuana has been in the news a lot recently, with the decision to legalize possession of small amounts of the drug in Colorado and Washington and the ongoing push to increase the use of medical marijuana in other states. Though there have been significant legal changes in other states, law enforcement officials here in Tennessee will still arrest and prosecute individuals for even small amounts of marijuana possession.

How does Tennessee law view marijuana?

In Tennessee, marijuana is classified as a Schedule VI substance, which means that it has a low potential for dependency or abuse. However, despite this classification, Tennessee has not legalized marijuana for medical purposes and imposes relatively harsh penalties for marijuana possession, use, and sale.

Possession



Possession of a half-ounce of marijuana or less is a Class A misdemeanor with penalties of up to a year in jail and a fine of up to \$2,500. First offenses bring with them a minimum fine of \$250, while a second conviction includes a fine of at least \$500. Those convicted a third time will be charged with a Class E felony, which carries a punishment of between one and six years in prison and a mandatory minimum fine of \$1,000.

Sale

The sale or possession with the intent to distribute of between a half-ounce of marijuana and 10 pounds of marijuana is a Class E felony punishable with between one and six years incarceration and a fine of up to \$5,000. The punishment increases steeply for any amounts greater than 10 pounds, both in terms of jail time and fines. Big time drug dealers face decades in prison and fines of up to \$500,000.

An important side note, those who are found to have sold marijuana to minors face an increase in the grade of the offense and harsher sentencing. Even stiffer penalties are handed down to those found to be selling marijuana to minors within 1,000 feet of a school.

Cultivation

Finally, Tennessee law also punishes those who cultivate marijuana. This means if you're growing pot plants for yourself or others you better be aware that you face very stiff punishment if caught. In fact, Tennessee law says that the cultivation of 10 plants or less is a Class E felony and can lead to incarceration of between one and six years, and will bring a fine of up to \$5,000.

ONLINE PIRACY

Though it's something many teens might do without thinking, logging into someone else's online streaming service is actually a crime under Tennessee law. As of 2011, Tennessee legislators came together and passed an entertainment theft bill which would make it illegal to use a friend's login, even with their permission, to access songs or watch movies from services like Netflix or Spotify.

The bill was pushed through the state legislature by the recording industry, a powerful lobby in Nashville. Though the intent of the bill was to punish hackers and thieves who steal passwords and then sell them in bulk to others, the sponsors of the legislation admitted that it can also be used against people who access a friend's or relative's online entertainment streaming services.

Though people who share passwords within their immediate family have nothing to worry about, experts say that college students who decide to share their login information with everyone in their dorm might be looking at hefty fines. The bill clearly states that it is illegal for someone to send their user name and password to a bunch of friends so that those friends can then get free subscriptions.

The bill says that streaming services that believe they are being ripped off can go to authorities and press charges against the freeloaders. The legislation appears in a section of Tennessee code devoted to punishing cable thieves and those who leave a restaurant without paying. The measure adds "entertainment subscription service" to the existing list of services that are protected by state law.

The law says that anyone found to have stolen \$500 or less of entertainment services would be punished with a misdemeanor which could include up to a year in jail and a \$2,500 fine. Higher price thefts could result in stiffer penalties and could even include felony criminal charges.



PROPERTY CRIMES

Property crimes in Tennessee truly run the gamut. Everything from stealing a pack of gum from a neighborhood convenience store to arson all falls under the umbrella of property crime. To give a bit more insight into the issue of property crime, the following explanation will run down some of the important categories and possible penalties.

Vandalism

The most common property crime in Tennessee is vandalism. The law says a person is guilty of vandalism if he or she knowingly or deliberately causes damage to the property of another person. Vandalism is treated under the law as a kind of theft and the punishment for the crime depends on the value of the property that was destroyed. The greater the loss the more time you'll be spending in jail. Class A misdemeanors include those acts of vandalism where the loss was less than \$500 and carry up to a year in jail and \$2,500 in fines.

Trespassing

Trespassing happens when someone who knowingly lacks consent enters another person's property. An example of an occasion where Tennessee law deems a person to knowingly lack consent is if there's a fence around someone's property, a symbol the law says conveys the owner's lack of consent. Criminal trespass is a Class C Misdemeanor and can be punished by a fine or a sentence of up to 30 days in jail.

Burglary

Another common property crime is burglary. In Tennessee, burglary takes place when one person enters a building or vehicle without authorization with the intent to commit a felony, theft or assault. Aggravated burglary is the same crime, but it must take place in someone's home. Finally, especially aggravated burglary exists in cases where someone has suffered serious bodily injury. Burglary convictions can involve Class E or D felonies while a conviction for aggravated burglary, a Class C felony, can lead to a prison term of between three and 15 years.

Arson

Arson is one of the most serious varieties of property crime due to the potential for serious bodily harm it presents as well as the typically large financial loss. Arson is defined as knowingly damaging any structure by fire without consent. Arson is a Class C felony and comes with a possible three to six years behind bars for first time offenders. This number rises up to 15 years for those with extensive criminal histories. If a person is present in the structure at the time of the act of arson, the criminal defendant faces greatly increased punishment, with between 15 and 60 years in prison and fines of up to \$50,000.

SEXTING

A pretty amazing figure released by [an organization](#) devoted to reducing teen pregnancy found that twenty percent of all teenagers have sent nude or semi-nude photographs or videos of themselves to others. Additionally, thirty-nine percent of teenagers admit to having sent sexually suggestive messages.

So what is sexting?

Sexting is a familiar term to most young people and is generally defined as the act of sending, receiving, or forwarding sexually explicit messages, photos, or images via cell phone, computer or other digital device. Sexting can occur among all age groups, but is more common among young adults.

Is sexting illegal?

There are actually two answers to this question. The answer for adults is no, or at least, not yet. Tennessee has not yet passed any laws that infringe on the ability of consenting adults to send explicit electronic messages to one another. The problem arises when one sends or receives nude images to or from a minor.

What about sexting among minors?

If an adult sends or receives sexually explicit images to or from a minor that adult has clearly broken the law and will be charged with a felony sex crime. The tricky cases that are frequently giving law enforcement officials headaches these days occur when one minor is caught creating, distributing, or possessing a sexually explicit image of another minor. The problem is that because Tennessee has no criminal statute on point, that minor could be charged under the state's child pornography statutes. Many people would be stunned to learn that if the minor is convicted of such a felony they will generally be required to register as a sex offender.

What are the penalties?

[Under Tennessee law](#) it is a felony to knowingly possess any material of a minor engaged in a sexual act. Minors found to be sexting could face separate felony convictions for possession, distribution and creation of such images. These crimes come with up to 30 years behind bars for creating pornographic images, 15 years for distributing them and 12 years in jail for possessing child porn. Finally, sex crime convictions come with fines of up to \$25,000 per offense and require that the person register as a sex offender, an especially terrible punishment that will follow you for life.

What about sexting in school?

Given the murky legal waters surrounding sexting, some school officials have taken the matter into their own hands. For instance, officials in Cleveland, TN have banned sexting outright. The Cleveland City School Board altered their policy regarding use of phones in school, adding language that said if pornographic pictures were found on school property it would result in suspension or expulsion. The school went a step further and said that even those sexting events that occur off campus can be subject to review by school officials to determine if harassment was involved. If officials believe that a minor was exploited the matter will be turned over to law enforcement authorities for criminal prosecution.

SHOPLIFTING

Though shoplifting may not sound like a terribly serious crime, Tennessee law does not view it as a small matter. This doesn't mean you have to worry about the electric chair for stealing some candy, but it's important to understand that theft is not treated as a mere slap on the wrist.

Civil penalties

When a person commits theft from a store in Tennessee and local prosecutors do not insist on pressing charges, the storeowner is allowed to request a civil penalty from the offender instead of pursuing a criminal case for theft. This is often a solution used in shoplifting cases.

If the merchandise is never recovered or is returned in a damaged condition, the thief will be responsible for paying a penalty that is the greater of either \$100 or three times the amount of the damage to the merchandise. However, if the merchandise is recovered and is still in sellable condition, the penalty will either be \$100 or two times the retail price of the merchandise.

It's important to note that this civil penalty option is only possible in cases where the listed retail price of the stolen item or items is less than \$500.

Serious criminal penalties

As with other states, a shoplifting charge in Tennessee is considered a [theft offense](#) and is penalized according to the value of the goods you are accused of taking. The table below shows the theft charges most commonly brought against shoplifters:

<u>Value</u>	<u>Charge</u>	<u>Maximum Penalty</u>
\$500 or less	Class A Misdemeanor	1 year in jail and \$2,500 in fines
\$500 to \$1,000	Class E Felony	1-6 years in prison and \$3,000 in fines
\$1,000 to \$10,000	Class D Felony	2-12 years in prison and \$5,000 in fines



SMOKING

Now that you're 18 it is legal to purchase tobacco products. It bears mentioning that just because something is legal does not mean you should do it. Serious health consequences should be considered before lighting up, regardless of whether the law permits you to smoke.

Restrictions on smoking

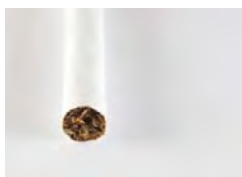
The 2007, the Tennessee Non-Smokers Protection Act made it illegal to smoke in most all places where other people work. This means that though you are legally allowed to smoke, there are restrictions on the places you can exercise this right. The law means that smoking is prohibited in almost all enclosed public places within the state with only a few exceptions. The smoking ban applies to areas such as restaurants, schools, hotels and motels, retail stores, shopping malls, sports arenas, common areas in apartment buildings and many other places.

So where can you smoke?

Though you're now legally allowed to smoke, other laws place tight restrictions on exactly where the smoking can take place. The following areas are exempt from Tennessee's smoking ban: private homes, private vehicles, non-enclosed public areas, venues that restrict access to those who are 21 or older and private clubs.

What about giving tobacco to minors?

Though you are now old enough to consume tobacco if you so choose, Tennessee law is clear that you can and will be punished for selling or giving tobacco products away to those under 18 years of age. This means you should steer clear of using your new legal maturity to purchase cigarettes for underage friends.



STATUTORY RAPE

Statutory rape is something many people have heard of, maybe in a newspaper article or perhaps on a rerun of Law & Order. Though it's a widely known topic, it's frequently misunderstood given the somewhat confusing language contained in Tennessee's law.

What is statutory rape?

Statutory rape happens when a person has sexual relations with someone under the age of legal consent (which is 18 in Tennessee). Consent is unimportant in such cases as the legal issue revolves strictly around the age of the participants. It's important to note that Tennessee law does not care about the gender of the victim. This means that both males and females who engage in sexual contact with an underage person face prosecution.

[In Tennessee](#), statutory rape is broken down into three categories based on the age of those engaged in sexual relations. Regardless of the specific category of statutory rape, those convicted of the crime face fines, jail time and the possibility of registering as a sex offender.

What are the different categories of statutory rape?

The first category of statutory rape is what's known as "mitigated statutory rape." This occurs in cases where sexual penetration happens when a victim is between 15 and 18 years old and the defendant is between four and five years older than the victim. Mitigated statutory rape is a Class E felony and can be punished with between one and six years behind bars. An example of a situation that would qualify as mitigated statutory rape is where sexual contact occurs between a 16-year-old and a 20-year-old.

The second category of such offenses is known as statutory rape and occurs in cases where the victim is between 13 and 15 years old and the defendant is at least four years older than the victim. Statutory rape also occurs in cases where the victims are between 15 and 18, but the defendants are more than five years older than the victim. This too is considered a Class E felony and is punishable by one to six years behind bars. An example of a situation that would qualify as

statutory rape is when sexual contact occurs between a 14-year-old and an 18-year-old.

Finally, aggravated statutory rape exists when sexual contact occurs between a victim that is between 13 and 18 and the defendant is at least 10 years older than the victim. This is a Class D felony and is punishable with between two and 12 years behind bars.



Can minors be convicted of statutory rape?

The short answer is yes. As the law clearly states, the issue is one of age gap. For instance, if a 13-year-old and a 17-year-old engaged in a sexual

relationship, the 17-year-old could face statutory rape charges and all the criminal punishments that go along with it. Just because both participants are underage does not prevent criminal prosecution.

QUICK REFERENCE GUIDE – HAMILTON COUNTY, TENNESSEE

HAMILTON COUNTY MAYOR - JIM COPPINGER

208 Courthouse
625 Georgia Avenue
Chattanooga, TN 37402
423-209-6100

HAMILTON COUNTY COMMISSION

401 Courthouse
625 Georgia Avenue
Chattanooga, TN 37402
423-209-7200
<http://www.hamiltontn.gov/commission/Default.aspx>

District 1 -- Randy Fairbanks

District 2 -- James A. (Jim) Fields

District 3 -- Marty Haynes

District 4 -- Warren Mackey

District 5 -- Gregory Beck

District 6 -- Joe Graham

District 7 -- Sabrena Turner-Smedley

District 8 -- Tim Boyd

District 9 -- Chester Bankston

ASSESSOR OF PROPERTY

6135 Heritage Park Drive, Bonny Oaks
Chattanooga, TN 37416
Phone: 423-209-7300
<http://www.HamiltonTN.gov/Assessor>

COUNTY CLERK

423.209.6500
<http://www.countyclerkanytime.com>
Driver Licenses
Tag & Title
Permanent Tag
Marriage Licenses
Business Licenses
Notary Public Applications
Boating/Hunting/Fishing

EDUCATION DEPARTMENT

Central Office
3074 Hickory Valley Road
Chattanooga, TN 37421
423-209-8400
www.hcde.org

QUICK REFERENCE GUIDE – HAMILTON COUNTY, TENNESSEE

ELECTION COMMISSION

700 River Terminal Road,
Chattanooga, TN 37406
423-493-5100
www.Elect.hamiltontn.gov

EQUAL EMPLOYMENT OPPORTUNITY

MLK Building, 317 Oak St, Suite 220
Chattanooga, TN 37403
423-209-6146
www.Hamiltontn.gov/EEO

HEALTH DEPARTMENT

921 East Third Street
Chattanooga, TN 37403
423-209-8000
www.Health.HamiltonTN.org

REGISTER OF DEEDS

400 Courthouse, 625 Georgia Avenue
Chattanooga, TN 37402
423-209-6560
www.HamiltonTN.gov/Register

SHERIFF

Ground Floor Courts Building, 600 Market Street
Chattanooga, TN 37402
Phone: 423-209-7000
www.HCSheriff.gov

TRUSTEE

625 Georgia Avenue, Room 210
Chattanooga, TN 37402-1494
Phone: 423-209-7270
<http://www.HamiltonTN.gov/Trustee>

HAMILTON COUNTY GOVERNMENT WEBSITE:

<http://www.hamiltontn.gov/Default.aspx>

SERVICES AND OTHER NEEDS INDEX:

<http://www.hamiltontn.gov/serviceneed.aspx>

GOVERNMENT DIRECTORY:

<http://www.hamiltontn.gov/GovDirectory.aspx>

QUICK REFERENCE GUIDE – HAMILTON COUNTY, TENNESSEE

CITY OF CHATTANOOGA

CITY OF CHATTANOOGA MAYOR – ANDY BERKE

101 E. 11th Street
Chattanooga, TN 37402
Phone: (423) 643-7800

CITY COUNCIL

1000 Lindsay Street
Chattanooga, TN 37402
(423) 757-5198
<http://www.chattanooga.gov/city-council>

- District 1 - Chip Henderson***
- District 2 - Jerry Mitchell***
- District 3 - Ken Smith***
- District 4 - Larry Grohn***
- District 5 - Russell Gilbert***
- District 6 - Carol B. Berz***
- District 7 - Chris Anderson***
- District 8 - Moses Freeman***
- District 9 - Yusuf Hakeem***

CHATTANOOGA POLICE DEPARTMENT

Chief Bobby H. Dodd
3300 Amnicola Highway
Chattanooga TN 37406

To report a crime or request assistance	(423) 698.2525
General Information	(423) 643.5000
Administration	(423) 643.5100
Crime Prevention and Community Outreach	(423) 643.5090
Crime Stoppers Hotline	(423) 698.3333
Drug Tip Hotline	(423) 493.BUST (2878)
Medical Examiner’s Office	(423) 439.5175

CITY OF CHATTANOOGA
www.chattanooga.gov

TO FIND INFORMATION ON STATE OF TENNESSEE, PLEASE VISIT:
www.tn.gov

QUICK REFERENCE GUIDE TO FEDERAL GUN AND NARCOTIC LAWS

Honorable William C. Killian
United States Attorney
Eastern District of Tennessee

There is NO parole in the federal system. You serve the sentence you are given.

18 U.S.C. § 924(c) – COMMITTING A VIOLENT CRIME OR A SERIOUS DRUG OFFENSE WITH A FIREARM:

- If you commit a crime of violence or drug trafficking crime and possess a firearm during its commission, your sentence will be 5 years to life.
- If the firearm is displayed, imprisonment from 7 years to life.
- If the firearm is discharged or fired, during the commission of the crime, 10 years to life.
- If a sawed-off rifle or shotgun is used or displayed, not less than 10 years to life.
- If a machine gun or destructive device, or a firearm equipped with a silencer, not less than 30 years to life.

The 2nd time you are convicted of a violation of 18 U.S.C. § 924(c), you are facing not less than 25 years to life in prison.

PEOPLE WHO CANNOT POSSESS A FIREARM OR AMMUNITION:

- People who have been convicted of a felony that has a possible punishment of a term of more than one year, regardless of whether they served time in jail or a penitentiary;
- Any person who is fugitive from any local, state, or federal court;
- Anybody who has been determined by a court or having been committed to a mental institution and determined to have a mental defect;
- Illegal immigrants or aliens;
- Anyone who has renounced their United States citizenship;
- Anybody under a court restraining order or who has been convicted of domestic violence;
- Under federal law a single bullet, shotgun shell, or bullet casing is ammunition.

Potential punishment for any of the violations listed above: imprisonment up to 10 years, fines up to \$250,000 and supervised release up to 3 years.

ARMED CAREER CRIMINAL:

- If you have been convicted three times of a violent felony or any drug felony which carries a possible sentence of 10 years or more, regardless of how long ago you were convicted and regardless of whether you spent time in jail or prison, and you are then found in possession of a gun or ammunition, then you could be an armed career criminal.
- A violent felony under federal law is determined to be burglary, arson, or any felony crimes more serious than this.

Punishment for armed career criminals: not less than 15 years and up to life in the penitentiary, fines up to \$250,000, supervised release up to 5 years.

MANUFACTURING, DISTRIBUTING, OR POSSESSING WITH INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE:

(21 U.S.C. § 842(a)(1)) – It is a federal crime to manufacture, distribute, or possess with intent to distribute a controlled substance. This is the most frequently charged federal drug statute. Most drug prosecutions involve cocaine (crack and powder), methamphetamine, heroin, marijuana and prescription pills (oxycodone, hydrocodone, Xanax, etc.).

IF YOU ARE INVOLVED WITH THE FOLLOWING AMOUNTS, YOU ARE FACING THESE PENALTIES:

Drug Penalty Chart			
Drug	841(b)(1)(A) 10 years to life*	841(b)(1)(B) 5 years to 40 years*	841(b)(1)(C) up to 20 years*
Heroin	1 kilo or more	100 grams or more	Less than 100 grams
Cocaine (Powder)	5 kilos or more	500 grams or more	Less than 500 grams
Crack	280 grams or more	28 grams or more	Less than 28 grams
Meth	50 grams or more	5 grams or more	Less than 5 grams
Marijuana	1000 kilos or more	100 kilos or more	Less than 100 kilos
Pills	N/A	N/A	Any amount

***Factors which increase the absolute least sentence and the maximum sentences:**

PRIOR FELONY DRUG CONVICTION –

10 years to Life offense doubles to 20 years to Life.

5 to 40 year offense doubles to 10 years to Life.

Up to 20 year offense increases to up to 30 years.

2 PRIOR FELONY DRUG CONVICTIONS –

10 years to Life offense becomes **Mandatory Life Without the Possibility of Parole.**

DRUG CONSPIRACY: (21 U.S.C. § 846) – An agreement between two or more persons to violate drug laws. **Penalty: Same as chart.**

ATTEMPT: (21 U.S.C. § 846) – Intent to commit a drug offense and taking a substantial step toward the commission of the crime. **Penalty: Same as chart.**

MAINTAINING DRUG-INVOLVED PREMISES: (“crack house statute”) (21 U.S.C. § 856) – It is a federal crime to open, lease, rent, use, maintain, manage, or control a dwelling for the purpose of manufacturing, distributing, storing, or using any controlled substance (not just crack). **Penalty: Up to 20 years, and your house would be forfeited to the federal government.**

POSSESSING PRODUCTS OR EQUIPMENT TO BE USED TO MANUFACTURE A CONTROLLED SUBSTANCE: (21 U.S.C. § 843(a)(6)) – It is a federal crime to possess chemicals, materials, or equipment which can be used to manufacture a controlled substance knowing, or having reasonable cause to believe, that the items will be used to manufacture a controlled substance. (most commonly crack or methamphetamine). **Penalty: up to 10 years for methamphetamine / up to 4 years for other controlled substances. Penalties are doubled with a previous drug felony conviction.**

MANUFACTURING, DISTRIBUTING, OR POSSESSING WITH INTENT TO DISTRIBUTE

METHAMPHETAMINE WHERE CHILDREN ARE PRESENT OR RESIDE: (21 U.S.C. § 860a) – Provides an increase in the punishment if children under the age of 18 are present or reside at location where methamphetamine is manufactured. **Penalty: up to 20 years consecutive to any other sentence imposed.**

ASSET FORFEITURE: (21 U.S.C. § 853) – Property [cash, personal property (including vehicles), and real estate] used to assist drug trafficking, as well as the proceeds of drug trafficking (income and assets). Are forfeitable to the government under federal law.

NOTES



Stop Sex Trafficking In TN

Every two minutes a child is trafficked for the purpose of commercial sexual exploitation in the U.S. Learn more at stopsextraffickingintn.com

Sex Trafficking involves the slavery of children and women forced to perform sex acts at various locations across the state for the purpose of making money for their captors. Sex trafficking occurs when a for-profit sex act is induced by force, fraud, or coercion OR in which the person performing the for-profit sex act is under the age of 18.

WARNING SIGNS

Recognize the signs of a human trafficking victim. She (or he) may:

- Be in the presence of an overly controlling and abusive “boyfriend”
- Tend not to look in the eyes or face of people, especially a “boyfriend”
- Have injuries / signs of physical abuse or torture
- Have signs of malnourishment
- Have restricted or controlled communication
- Appear fearful, anxious, depressed, submissive, tense, nervous
- Claim to be an adult although appearance suggests adolescent features
- Lack identification documents (ID, birth certificate, Social Security card)
- Possess evidence of different aliases and ages
- Lack of knowledge of a given community or whereabouts
- Frequently move from place to place
- Claim to be “just visiting” and not be able to clarify addresses
- Have few or no personal possessions
- Have few or no personal financial records
- Have inconsistencies in his or her story
- Be inappropriately dressed
- Exhibit irregular school attendance

If you have any suspicion a child is a sex trafficking victim - **Take action now**. Call the TN Human Trafficking Hotline, a 24 hour resource providing a confidential way for victims and/or witnesses to report instances of human trafficking or suspicious behavior so that victims can get help.

**TRAFFICKING HOTLINE: 1-855-55-TNHTH
(1-855-558-6484)**

CONTRIBUTORS

The California Law Advocates, Foundation of the State Bar of California, 555 Franklin Street, San Francisco, California, originally developed this booklet in 1993. It has been redesigned by the Chattanooga Bar Association to conform to Tennessee law and is being distributed to all Hamilton County 18-year olds through the high schools in Hamilton County.

We gratefully acknowledge the generous donations from the following contributors:

COUNTY MAYOR JIM COPPINGER

As the Chief Fiscal Officer for the County, it is the Mayor's responsibility to oversee the preparation and administration of official budgets and financial reports. In conjunction with division heads, the Mayor manages the daily operations of County General Government and ensures that all applicable laws, policies, and resolutions are implemented.

COUNTY COMMISSIONERS

The County Commission is the legislative and policy-making body of the County. It is composed of nine residents who are elected from and represent nine districts within the County. Commission members are elected for four-year terms.

DISTRICT 1 -- RANDY FAIRBANKS

DISTRICT 2 -- JAMES A. (JIM) FIELDS

DISTRICT 3 -- MARTY HAYNES

DISTRICT 4 -- WARREN MACKEY

DISTRICT 5 -- GREGORY BECK

DISTRICT 6 -- JOE GRAHAM

DISTRICT 7 -- SABRENA TURNER-SMEDLEY

DISTRICT 8 -- TIM BOYD

DISTRICT 9 -- CHESTER BANKSTON