

# Tennessee

WOMEN IN PRISON: 1,126 (07/05)<sup>1</sup>

## Custodial Sexual Misconduct

### *Custodial Sexual Misconduct – Statute*

#### §41-21-241 – Sexual contact with inmates<sup>i</sup>

Tennessee’s law is in the Correctional Institutions And Inmates title, under the Inmates chapter, in the section entitled “Regulation and Care of Inmates”. The law covers violations committed by a police or correctional officer at all times after arrest, but the protected inmate must be in a penal institution.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	Yes	The law covers all forms of sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law specifically applies to voluntary situations.
Does the statute cover all custodians and staff in contact with inmates?	No	The law covers only law enforcement or corrections officers.
Does the statute cover all places where an inmate might be abused?	No	The law requires the inmate to be at a penal institution.
Is the penalty a felony?	No	Violation is a class A misdemeanor.

### *Custodial Sexual Misconduct – Allegations and Incidents*

Indictments/Convictions (answer to AI letter requesting information) <sup>2</sup>	In 2005, the Tennessee Attorney General’s Office informed AI that it does not compile statistics on prosecutions and convictions under the state CSM statutes. The AG referred AI to the District Attorneys General Conference, who also informed AI that they do not compile such statistics. <sup>3</sup>
Incidents reported in select media since January 2000	- Knox County Jail: A jailer is accused of violating seven women in June and July 2005. The indictment accuses the jailer of 34 felony offenses, including 10 rape charges. Allegedly, he spied on women in showers, fondled them, and forced some to perform oral sex or to submit to digital penetration. The DA stated the assaults occurred in the medical unit, where there are few cameras. ( <i>Knoxville News Sentinel, 08/04/05</i> )
	- Blount County Jail: An off-duty Knox County supervisor checked out a female inmate at the Blount Jail to take her to a dental appointment, but took her to a motel instead. She had previously been housed in the Knox County Jail, where the supervisor had first met her. He was placed on administrative leave. ( <i>Knoxville News Sentinel, 08/04/05</i> )

<sup>i</sup> The text of Tennessee’s statute is reprinted at the end of this section

	<ul style="list-style-type: none"> <li>- McNairy County Jail: Former jailer Johnny Carter pleaded guilty to a misdemeanor charge for sexual penetration of an inmate and three felony counts of introducing contraband into a penal system. He was sentenced to 180 days in jail and, following that time, one year of house arrest. The McNairy County Sheriff and a jail administrator were also accused of intentionally freeing early the inmate with whom Carter had had sexual relations so she could get an abortion. (<i>The Jackson Sun, 04/16/05</i>)</li> <li>- Anderson County Jail: A former inmate alleged in a lawsuit that she was raped and assaulted by jailer Gregory Wilson and contracted multiple sexually transmitted diseases from him. According to the federal lawsuit, Wilson provided female inmates cigarettes in exchange for sexual favors. He allegedly forced the petitioner to commit sexual acts, used sexually explicit, graphic and profane language toward her, directed her to wear certain apparel owned by him and infected her with two sexually transmitted diseases. In addition to Wilson, the woman is suing Sheriff White, Anderson County, the Sheriff's office and unnamed employees. Wilson has been charged with sexual contact with an inmate and resigned after being suspended without pay. (<i>Knoxville News-Sentinel, 09/09/04; 01/21/05</i>)</li> <li>- Canon County Sheriff's Dept.: Sheriff Brandon was indicted for misuse of office and sexual improprieties. He rehired an officer who had been fired for having sex with an inmate, and was frequently alone with a female inmate in his office. (<i>The Tennessean, 12/02/00</i>)</li> <li>- McMinn County Jail: Four officers pleaded guilty to sexual misconduct charges for having sexual relations with female inmates. Two were sentenced to 48 hours in jail and the other two received suspended sentences. Three were fired and one resigned. (<i>Knoxville News Sentinel, 09/20/00</i>)</li> <li>- Shelby County Sheriff's Dept.: Courtroom Bailiff John Jackson was indicted on charges of raping a female inmate in a holding cell behind the courtroom. (<i>The Commercial Appeal, 03/02/00</i>)</li> <li>- Morgan County Jail: One officer was fired and another resigned after allegations of sexual abuse of female inmates. (<i>The Tennessean, 01/27/00</i>)</li> </ul>
<p><i>Other reported incidents</i></p>	<ul style="list-style-type: none"> <li>- On February 10, 2000, the US Department of Justice filed a complaint against Morgan County in federal court concerning conditions at the Morgan County Jail. On June 27, 2000, the parties filed a settlement agreement providing for protection from harassment for female inmates as well as new policies and procedures to prevent sexual misconduct by staff, among other reforms. The lawsuit was in response to a DOJ conclusion that the jail's lack of basic administrative systems, coupled with a lack of staff and staff training, had resulted in sexual assault and harassment of female inmates by jail staff (and by male inmates).</li> </ul>

## ***Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women***

The following is based on data provided by the Tennessee Department of Corrections in response to AI's survey in 2000 and 2005. AI did not receive data from the Tennessee Department of Corrections in 2002. Additional information from other sources is included where available.

<p>Is the current Department of Corrections policy on custodial sexual misconduct language-explicit?</p>	<p><b>Yes</b></p> <p>Tennessee Department of Correction (DOC) policy contains explicit language prohibiting sexual misconduct (defined as any unwanted behavior or unwanted acts of a sexual nature directed toward any individual by an employee, visitor, or agency representative), sexual harassment, sexual abuse, and all sexual contact regardless of consent.<sup>4</sup></p>
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Allow cross-gender pat-down searches?	<b>Yes</b>	According to the Tennessee DOC, cross-gender pat-down searches are allowed “if absolutely necessary.” <sup>5</sup>
What is the percentage of female officers in relation to male officers?		No information provided.
Restrictions on the duties of male guards?	<b>No</b>	No details provided.
Staff training on sexual misconduct?	--	Tennessee DOC reports that they do provide such training, however, the policy on employee / offender relationships does not explicitly provide for staff training. <sup>6</sup> Reportedly, employees receive instruction related to the prevention, detection, response and investigation of inmate on inmate sexual assault. <sup>7</sup>
Inform inmates of agency policies and reporting procedures on sexual misconduct?	--	Tennessee DOC policy on employee / offender relationships provides that the Central Office shall disseminate signs declaring the zero tolerance policy regarding employee / offender relationships by January 1, 2006. <sup>8</sup> In addition, Tennessee DOC policy provides that new inmates receive verbal and written information during their orientation about sexual assault prevention, self-protection, reporting procedure, and treatment and counseling. All inmates at facilities are to receive information concerning sexual assault prior to March 1, 2006. <sup>9</sup>

## ***Custodial Sexual Misconduct - Policies and Procedures***

### ***Guiding Official Response***

The following is based on the Tennessee Department of Corrections response to AI’s surveys, please see above.

Is medical help available for the victim of alleged sexual abuse?	<b>Yes</b>	The Tennessee DOC states that medical help is available. <sup>10</sup> (Note: the policy providing for this focuses on inmate on inmate sexual assault rather than sexual misconduct committed by correctional staff.)
Are immediate mental health services available for the victim of alleged sexual abuse?	<b>Yes</b>	Tennessee DOC policy dictates that if the assault is reported or discovered within 72 hours of the incident, the alleged victim will be segregated and single-celled until screened by a mental health professional. If the sexual assault occurred more than 72 hours before reporting or discovery the alleged victim will be placed in an individual segregation cell and health and mental health screenings shall be offered. <sup>11</sup> (Note: the policy providing for this focuses on inmate on inmate sexual assault rather than sexual misconduct committed by correctional staff.)
Is counseling available for the victim of alleged sexual abuse?	<b>Yes</b>	According to Tennessee DOC policy, a Victim Support Person (an employee designated by the Warden who has been specially trained to support an alleged victim during the investigation of a sexual assault) shall be notified by the next business day. The Person shall consult with the investigator and “offer assistance to the alleged victim as is appropriate based on their training.” <sup>12</sup> (Note: the policy providing for this focuses on inmate on inmate sexual assault rather than sexual misconduct committed by correctional staff.)
Is a rape kit taken?	<b>Yes</b>	Tennessee DOC policy dictates that if the alleged assault occurred within the previous 72 hours and evidence is obtainable, the inmate victim will be transported and examined at a local hospital. <sup>13</sup> (Note: the policy providing for this focuses on inmate on inmate sexual assault rather than custodial sexual misconduct.)
Are there special procedures for investigating allegations of sexual misconduct?	<b>Yes</b>	Tennessee DOC policy states that ‘allegations of employee sexual misconduct, sexual harassment, sexual contact and / or sexual abuse shall be investigated in accordance with Tennessee DOC policies and Tennessee statutes.’ <sup>14</sup> Tennessee DOC policy states that the Victim Support Person shall be permitted to sit on any of the interviews of

		the inmate victim. <sup>15</sup>
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	<b>Yes</b>	Tennessee DOC policy states that an inmate may report a sexual assault to any employee, and that the DOC Internal Affairs Division will be notified and will initiate an investigation. <sup>16</sup> (Note: the policy providing for this focuses on inmate on inmate sexual assault rather than sexual misconduct committed by correctional staff.)
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	<b>No</b>	No details provided.
Is the investigation external?	<b>No</b>	No details provided
If there is an external investigation, how is it triggered?		
Are special measures taken to shield alleged victims from retaliation?	<b>Yes</b>	According to Tennessee DOC measures are taken, but no details were provided. Tennessee DOC policy on employee / offender relationships prohibits employees from retaliating against anyone who reports an allegation of custodial sexual misconduct or provides information and states that this can lead to discipline up to and including termination. <sup>17</sup>
If so, do the measures include solitary confinement or lock-down of the inmate?	<b>Yes</b>	No details provided.
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	--	According to the Tennessee DOC, there is a Select Oversight Committee on Corrections. No details were provided. <sup>18</sup>
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	--	Tennessee DOC policy states that the Warden/designee shall report allegations of inmate on inmate sexual assault along with the dispositions of the incidents and keep all records associated with the investigation. This information shall also be provided to the Director of Policy, Planning, and Research for compilation and analysis at the conclusion of each calendar year. <sup>19</sup> It is unclear whether data regarding allegations of custodial sexual misconduct would be included in this.

## ***Custodial Sexual Misconduct – Pending Legislative Proposals***

*None*

## **Pregnancy in Custody**

### ***Pregnancy - Statute***

Legislation banning shackling in the third trimester or during labor	<b>No</b>	Tennessee has no legislation limiting the use of shackling on pregnant inmates.
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### ***Pregnancy - Policies, Procedures and Practices***

The following is based on the Tennessee Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester	<b>Yes</b>	No further details provided.
Restraints during transport	<b>Yes</b>	According to the Tennessee DOC, shackling procedures are no different than for other female prisoners, based on custody level.

		However, 'some consideration' is also taken of terms of pregnancy. <sup>20</sup>
Restraints during labor	<b>Yes</b>	According to the Tennessee DOC, the application of restraints is based on custody level, hospital protocol, and the doctor's wishes. <sup>21</sup>
Officer in delivery room	<b>No</b>	No further details provided.

## Contact information

### TENNESSEE DEPARTMENT OF CORRECTIONS

<b>Acting DOC Commissioner Gayle Ray</b> 320 Sixth Avenue North, 4 <sup>th</sup> Floor Rachel Jackson Building Nashville, TN 37243-0465 Phone: (615) 741-1000; Fax: (615) 532-8281	Home page: <a href="http://www.state.tn.us/correction/index.html">http://www.state.tn.us/correction/index.html</a>
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### TENNESSEE DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

<b>Tennessee Prison for Women</b> Jewel Steele, Warden Inmates: 710 (07/05) <sup>22</sup> 3881 Stewarts Lane Nashville, TN 37243 Phone: (615) 741-1255 Security Level: All levels (female)	<b>Mark Luttrell Correctional Center</b> Reuben Hodge, Warden Inmates: 416 (07/05) <sup>23</sup> 6000 State Road Memphis, TN 38134 Phone: (931) 372-2080 Security Level: Minimum and Close Security (female)
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### TENNESSEE EXECUTIVE

<b>Governor Phil Bredesen [D]</b> Tennessee State Capitol Nashville, TN 37243-0001 Phone (615) 741-2001; Fax: (615) 532-9711 Email: <a href="mailto:phil.bredesen@state.tn.us">phil.bredesen@state.tn.us</a>	Homepage: <a href="http://www.state.tn.us/governor/">http://www.state.tn.us/governor/</a>  Elected: 2002
<b>Attorney General Paul G. Summers [R]</b> Office of the Attorney General P.O. Box 20207 Nashville, TN 37243 Phone: (615) 741-3491	Homepage: <a href="http://www.attorneygeneral.state.tn.us/">http://www.attorneygeneral.state.tn.us/</a>  Appointed: 1999

### TENNESSEE LEGISLATIVE INFORMATION

<b>Legislative Session:</b> The General Assembly meets for ninety session days over a two-year period from mid-January through late April or May of each year. <b>Senate:</b> 33 members, 4-year terms. Half of the members stand for election every two years. <b>House:</b> 99 members, 2-year terms. All members stand for election at the same time.	Legislature home page: <a href="http://www.legislature.state.tn.us">http://www.legislature.state.tn.us</a>  Bill information phone number: (615) 741-0927
<b>Senate</b> 1 Legislative Plaza Nashville, TN 37243	
<b>House of Representatives</b> 19 Legislative Plaza Nashville, TN 37243	

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## **WOMEN IN PRISON - NGO RESOURCES**

The organizations listed are not endorsed by or affiliated with Amnesty International.

Tennessee-CURE  
111 Breeder Road  
Portland, TN 37148  
Phone: (615) 323-7905

Restorative Justice Ministries United Methodist Church  
1008 19th Ave South  
Nashville TN 37212  
Phone: (615) 329-2215; Fax: (615) 329-2279

ACLU of Tennessee  
P.O. Box 120160  
Nashville, TN 37212  
Phone: (615) 320-7142  
Web site: [www.aclu-tn.org](http://www.aclu-tn.org)

### **Tennessee's Custodial Sexual Misconduct Statute**

41-21-241. Sexual contact with inmates.

(a) It is an offense for a law enforcement officer or a correctional officer to voluntarily engage in sexual contact or sexual penetration, as such terms are defined in § 39-13-501, with an inmate who is in custody at a penal institution as defined in § 39-16-601.

(b) A violation of this section is a Class A misdemeanor.

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<sup>1</sup> Tennessee Department of Corrections (DOC), *July Population Overview*, 07/2005, available at <http://www.state.tn.us/correction/institutions/population/overview.html>, as per 01/27/06.

<sup>2</sup> The information does not reflect prosecutions or convictions under rape statutes.

<sup>3</sup> Letter from Lucy Honey Haynes, Associate Chief Deputy, Office of the Attorney General, State of Tennessee, 08/23/05; and email from Wally Kirby, Tennessee District Attorneys General Conference 09/02/05.

<sup>4</sup> State of Tennessee DOC Administrative Policies and Procedures, "Employee/Offender Relationships," Index#: 305.03, effective 11/15/05.

<sup>5</sup> Fax from Cile Crowder, Tennessee DOC, 09/02/05.

<sup>6</sup> State of Tennessee DOC Administrative Policies and Procedures, "Employee/Offender Relationships," Index#: 305.03, effective 11/15/05.

<sup>7</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05.

<sup>8</sup> State of Tennessee DOC Administrative Policies and Procedures, "Employee/Offender Relationships," Index#: 305.03, effective 11/15/05.

<sup>9</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05; State of Tennessee DOC Administrative Policies and Procedures, "Employee/Offender Relationships," Index#: 305.03, effective 11/15/05.

<sup>10</sup> Fax from Cile Crowder, Tennessee DOC, 09/02/05.

<sup>11</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05.

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<sup>15</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05.

<sup>16</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05.

<sup>17</sup> State of Tennessee DOC Administrative Policies and Procedures, "Employee/Offender Relationships," Index#: 305.03, effective 11/15/05.

<sup>18</sup> Fax from Cile Crowder, Tennessee DOC, 09/02/05.

<sup>19</sup> State of Tennessee DOC Administrative Policies and Procedures, "Sexual Assault of Inmates," Index #: 502.06, effective 03/15/05.

<sup>20</sup> Phone conversation with Steve Hayes, Tennessee Public Information Officer, 12/2000.

<sup>21</sup> Phone conversation with Steve Hayes, Tennessee Public Information Officer, 12/2000.

<sup>22</sup> Tennessee DOC, *Tennessee Prison for Women: Facility Population*, 07/2005, available at <http://www.state.tn.us/correction/institutions/population/tpfw-pop.html>, as per 01/27/06.

<sup>23</sup> Tennessee DOC, *Mark Luttrell Correctional Center: Facility Population*, July 2005, available at <http://www.state.tn.us/correction/institutions/population/mlcc-pop.html>, as per 01/27/06.