

Tennessee

WOMEN IN PRISON: 1,371 (05/00)ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§41-21-241 – *Sexual contact or sexual penetration with a prisoner or inmate*,¹

Tennessee’s law is in the Correctional Institutions And Inmates title under the Inmates chapter in the part entitled Regulation and Care of Inmates. The law defines the persons protected to include all times after arrest, by a police or correctional officer, but the protected inmate must be in a penal institution.

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| 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 only covers 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

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| Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ | Amnesty International has received no response from the Tennessee Attorney General’s Office. |
| Incidents reported in select media since 10/98 | <ul style="list-style-type: none"> - Canon County Sheriffs Dept.: Sheriff Brandon was indicted for misuse of office and sexual improprieties. He had rehired an officer who was fired for having sex with an inmate, and was frequently alone with a female inmate in his office. <i>The Tennessean</i> 12/02/00 - McMinn County Jail: Four former 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</i> 09/20/00 - Shelby County Sheriffs 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</i> 03/02/00 - Morgan County Jail: One officer was fired and another resigned after allegations of sexual abuse of female inmates. <i>The Tennessean</i> 01/27/00 - Maury County Jail: Officer Jason Crews was accused of having sexual relations with several female inmates and was fired. No criminal charges were filed. <i>The Tennessean</i> 01/25/99 |

¹ The text of Tennessee’s statute is reprinted at the end of this section

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

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases where further details have been available to AI from alternative sources.

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| Is the current Department of Corrections policy on custodial sexual misconduct language explicit? | No | The policy does not contain specific language about the nature of the sexual behaviors prohibited. ⁱⁱⁱ |
| Allow cross-gender pat-down searches? | | Not known. ^{iv} |
| Restrictions on the duties of male guards? | | Not known. |
| Was there staff training on sexual misconduct in 1996? | Yes | All staff receive two hours of pre-service training. ^v |
| Staff training developed 1996-2000? | Yes | No details of training were available. ^{vi} |
| Special procedures for investigating allegations of sexual misconduct in 1996? | Yes | Tennessee DOC uses procedures which may include covert investigative techniques, monitoring mail and/or phone calls, DNA tests, searching work area, polygraph exams. ^{vii} |
| Investigation procedures introduced 1996-2000? | Yes | The Tennessee DOC uses community and professional resources in cases of rape; resources include rape crisis centers. Annual in-service training includes information on interview processes that focus on the special needs of sexually abused staff and inmates. Interviews are gender aligned to ensure the least oppressive environment for a victim. ^{viii} |
| Informing inmates of agency policies on sexual misconduct in 1996? | Yes | Policies are covered in a specific training presentation, in standard inmate orientation and are also available in library. ^{ix} |
| Revision of procedures on informing inmates on sexual misconduct 1996-2000? | No | The Tennessee DOC is in the process of introducing new methods of informing inmates about the issues. ^x |

Custodial Sexual Misconduct –Legislative Proposals 2000-01

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| <p>2001 HB 1368² Introduced by Representative Boyer 02/15/01 Introduced 02/21/01 referred to Judiciary</p> <p>2001 SB 1465 Introduced by Senator Williams 02/14/01 introduced 02/15/01 referred to Senate Judiciary Committee</p> | <p>The bills are identical companion bills. They would increase the penalty for engaging in sexual contact with a prisoner or inmate from a Class A misdemeanor to a Class E felony. The bills would increase coverage to private prisons and to volunteers in facilities. They would also reassign the custodial sexual misconduct law to the <i>Criminal Offenses – Offenses Against the Administration of Government</i> section of the Tennessee code.</p> |
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Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

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| Legislation banning shackling in the third trimester or during labor | No | Tennessee has no legislation limiting the use of shackling on pregnant inmates. |
| Administrative rules concerning pregnancy and delivery | | Not known. |

² The text of the Tennessee bill is included at the end of this section.

Pregnancy and Parenting - Policies, Procedures and Practices

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| Use of restraints in third trimester | | Not known. |
| Restraints during transport | Yes | According to 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. ^{xi} |
| Restraints during labor | Yes | According to Tennessee DOC, the application of restraints is based on custody level, hospital protocol, and doctor's wishes. ^{xii} |
| Officer in delivery room | | Not known. |
| Parenting programs specific for women | Yes | Tennessee DOC provides a parenting program specifically for women. ^{xiii} |
| Special visitation rights for women | Yes | Tennessee DOC has special visitation rights for women with children. ^{xiv} |
| State Mother and Child Residency Program | No | Tennessee DOC has no residential program for inmate mothers and their infants/children. ^{xv} |

Contact information

TENNESSEE DEPARTMENT OF CORRECTIONS

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| <p>DOC Commissioner Donal Campbell 320 Sixth Avenue North First Floor, Rachel Jackson Building Nashville, TN 37243-0465 Phone: (615) 741-1000 x4001; Fax: (615) 532-8281</p> | <p>Home page: Http://www.state.tn.us/correction/</p> |
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TENNESSEE DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

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| <p>Tennessee Prison for Women Earline Guida, Warden 3881 Steward Lane Nashville, TN 37243 Phone: (615) 880-7100; Fax: (615) 880-7156</p> | <p>Mark Luttrell Reception Center Wayne Douglas, Warden 6000 State Road Memphis, TN 38134 Phone: (931) 372-2080; Fax: (931) 372-0469</p> |
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TENNESSEE EXECUTIVE

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| <p>Governor Don Sundquist [R] Office of the Governor State Capitol Nashville, TN 37243-001 Phone (615) 741-2001 Email: governor@gov.state.tn.us</p> | <p>Homepage: http://www.state.tn.us/governor/ Contact page: http://www.state.tn.us/governor/contact.htm Elected: November 1994</p> |
| <p>Attorney General Paul G. Summers [R] Office of the Attorney General 425 Fifth Avenue North Nashville, TN 37243 Email: mail@ag.state.tn.us</p> | <p>Homepage: Http://www.ag.state.tn Elected: 1998</p> |

TENNESSEE LEGISLATIVE INFORMATION

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

WOMEN IN PRISON - NGO RESOURCES

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

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| <p>Tennessee-CURE C/o PJ Davis 111 Breeder Road Portland, TN 37148 Phone: (615) 323-7905</p> |
| <p>Restorative Justice Ministries United Methodist Church 1008 19th Ave South Nashville TN 37212 Phone: (615) 329-2215; Fax: (615) 329-2279 <i>Categories: Death Penalty, Prisoners' Rights, Private Prisons, Religious Activism, Research/Analysis</i></p> |
| <p>Prison Life Magazine 3123 Murfreesboro Rd Antioch TN 37103</p> |
| <p>ACLU of Tennessee P.O. Box 120160 Nashville, TN 37212 Phone: (615) 320-7142 Web site: www.aclu-tn.org</p> |

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.

2001 SB 1645

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 41-21-241, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 16, Part 4, is amended by adding the following as an appropriately numbered new section:

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

(b) For the purposes of this section, the terms "law enforcement officer" and "correctional employee" include a person working in such capacity as a private contractor or employee of a private contractor.

(c) A violation of this section is a Class E felony.

SECTION 3. This act shall take effect July 1, 2001, the public welfare requiring it.

- ^v US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{vi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{viii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{xi} Phone conversation with Tennessee Public Information Officer, Steve Hayes, 12/2000
- ^{xii} Phone conversation with Tennessee Public Information Officer, Steve Hayes, 12/2000
- ^{xiii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xiv} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xv} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000