



# County Technical Assistance Service

Published on e-Li (<https://eli.ctas.tennessee.edu>)

December 02, 2021

## Who Has Access?

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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**Reference Number:** CTAS-1154

The statute states that records must be open for inspection by any “citizen” of Tennessee. In keeping with the legislative intent to provide for liberal public access to government records, the Tennessee Supreme Court has determined that the word “citizen” includes convicted felons incarcerated as inmates within the Tennessee prison system.<sup>[1]</sup> Although certain rights are stripped from individuals when they are convicted of a felony (i.e. voting, ability to hold public office), the court concluded that neither the Tennessee Public Records Act nor any other statute prevented a convicted felon from seeking access to public records. Neither should access be denied to anyone else who appears to be a citizen of this state.

The law is not as generous with non-residents. Since the statute states that it grants public access to “any citizen of Tennessee,” the Tennessee attorney general has opined that public officials may deny requests for copies of public records based on the lack of state citizenship.<sup>[2]</sup> Since there is no fundamental federal right to access of government records and since Tennessee’s laws provide access only to state citizens, the attorney general reached the conclusion that it is not a violation of the privileges and immunities clause of the United States Constitution to deny access to persons making requests from other states for Tennessee records. Keep in mind that although the act does not affirmatively require disclosure of public records to non-citizens, neither does it prohibit the release of public records to non-citizens.<sup>[3]</sup> It is within the discretion of the official who has custody of the records to determine whether or not access will be provided to non-citizens. It is the recommendation of CTAS that offices should develop a written policy in that regard and enforce it consistently.

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<sup>[1]</sup>*Robin M. Cole v. Donal Campbell*, 968 S.W.2d 274 (Tenn. 1998).

<sup>[2]</sup>Op. Tenn. Att’y Gen. No. 99-067 (March 18, 1999) re-affirmed by Op. Tenn. Att’y Gen. No. 01-132 (August 22, 2001).

<sup>[3]</sup>Op. Tenn. Att’y Gen. No. 99-067 (March 18, 1999).

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