



# County Technical Assistance Service

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## Detention of Juveniles

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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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## Detention of Juveniles

**Reference Number:** CTAS-1344

A child alleged to be dependent or neglected may not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent. T.C.A. § 37-1-116(d). A child alleged to be delinquent or unruly may be detained in a jail or other facility for the detention of adults only if:

1. Other facilities listed in T.C.A. § 37-1-116(a)(3) are not available;
2. The detention is in a room separate and removed from those for adults; and
3. It appears to the satisfaction of the court that public safety and protection reasonably require detention, and it so orders.

T.C.A. § 37-1-116(a)(4). See *State v. Carroll*, 36 S.W.3d 854, 862 (Tenn. Crim. App. 1999) (“Tenn.Code. Ann. § 37-1-116 (1996) explicitly limits appropriate places of detention for juveniles, as opposed to custody of juveniles ...”).

The sheriff or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime must immediately inform the court if a person who is or appears to be under 18 years of age is received at the facility, and must bring the person before the court upon request or deliver the person to a detention or shelter care facility designated by the court. T.C.A. § 37-1-116(b).

Pursuant to T.C.A. § 37-1-116(e), no child may be detained or otherwise placed in any jail or other facility for the detention of adults, except as provided in T.C.A. § 37-1-116(c) and (h). A juvenile may be temporarily detained for as short a time as feasible, not to exceed 48 hours, in an adult jail or lockup, if:

1. The juvenile is accused of a serious crime against persons, including criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery and extortion accompanied by threats of violence;
2. The county has a low population density not to exceed 35 people per square mile;
3. The facility and program have received prior certification by the Tennessee Corrections Institute as providing detention and treatment with total sight and sound separation from adult detainees and prisoners, including no access by trustees;
4. There is no juvenile court or other public authority or private agency as provided in T.C.A. § 37-1-116(f) able and willing to contract for the placement of the juvenile; and
5. A determination is made that there is no existing acceptable alternative placement available for the juvenile.

T.C.A. § 37-1-116(h).

The attorney general has opined “that a juvenile offender who has attained the age of majority before being convicted of an offense by a juvenile court may not be held in an adult facility, such as the local jail. Such a defendant may only be held in a juvenile detention facility ... and may not be held beyond the defendant’s nineteenth birthday, regardless of whether the offense is a misdemeanor or a felony.” Op. Tenn. Atty. Gen. No. 04-038 (March 12, 2004).

If a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime. T.C.A. § 37-1-116(c). After a petition has been filed in juvenile court alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, the court, before hearing the petition on the merits, may transfer the child to the sheriff of the county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction. T.C.A. § 37-1-134(a).

## Juvenile Detention Facilities

**Reference Number:** CTAS-1345

Notwithstanding the provisions of T.C.A. § 37-1-116 to the contrary, in any facility that meets the following requisites of separateness, juveniles who meet the detention criteria of T.C.A. § 37-1-114(c) may be held in a juvenile detention facility that is in the same building or on the same grounds as an adult jail or lockup provided that no juvenile facility constructed or developed after January 1, 1995, may be located in the same building or directly connected to any adult jail or lockup facility complex:

1. Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;
2. Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, healthcare, dining, sleeping and general living activities;
3. Separate juvenile and adult staff, including management, security staff and direct care staff, such as recreational, educational and counseling. Specialized services staff, such as cooks, bookkeepers and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both; and
4. In the event that state standards or licensing requirements for secure juvenile detention facilities are established, the juvenile facility must meet the standards and be licensed or approved as appropriate.

T.C.A. § 37-1-116(i)(1).

In determining whether the criteria set out above are met, the following factors will serve to enhance the separateness of juvenile and adult facilities:

1. Juvenile staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the youth serving operations. Juvenile staff are specially trained in the handling of juveniles and the special problems associated with this group;
2. A separate juvenile operations manual, with written procedures for staff and agency reference, specifies the function and operation of the juvenile program;
3. There is minimal sharing between the facilities of public lobbies or office/support space for staff;
4. Juveniles do not share direct service or access space with adult offenders within the facilities, including entrance to and exits from the facilities. All juvenile facility intake, booking and admission processes take place in a separate area and are under the direction of juvenile facility staff. Secure juvenile entrances (sally ports, waiting areas) are independently controlled by juvenile staff and separated from adult entrances. Public entrances, lobbies and waiting areas for the juvenile detention program are also controlled by juvenile staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces and program/service spaces;
5. The space available for juvenile living, sleeping and the conduct of juvenile programs conforms to the requirements for secure juvenile detention specified by prevailing case law, prevailing professional standards of care, and by state code; and
6. The facility is formally recognized as a juvenile detention center by the state agency responsible for monitoring, reviewing or certifying of juvenile detention facilities.

T.C.A. § 37-1-116(i)(2).

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