



# County Technical Assistance Service

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## Inmate Labor for Private Purposes Prohibited

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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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## Inmate Labor for Private Purposes Prohibited

**Reference Number:** CTAS-1400

No sheriff, jailer or other person responsible for the care and custody of inmates housed in a county jail may employ, require or otherwise use any such inmate housed therein to perform labor that will or may result directly or indirectly in such sheriff's, jailer's or other person's personal gain, profit or benefit or in gain, profit or benefit to a business partially or wholly owned by such sheriff, jailer or other person. This prohibition shall apply regardless of whether the inmate is or is not compensated for any such labor. T.C.A. § 41-2-148(a). See *also* Op. Tenn. Atty. Gen. No. 03-075 (June 18, 2003).

No sheriff, jailer or other person responsible for the care and custody of inmates housed in a county jail may permit any such inmate housed therein to perform any labor for the gain, profit or benefit of a private citizen, or for-profit corporation, partnership or other business unless such labor is part of a court-approved work release program or unless the work release program operates under a commission established pursuant to T.C.A. § 41-2-134. T.C.A. § 41-2-148(b)(1). See *also* Op. Tenn. Atty. Gen. No. 03-125 (September 29, 2003).

## Penalties for Violating Inmate Labor for Private Purposes

**Reference Number:** CTAS-1401

Any sheriff, jailer or other person responsible for the custody of an inmate housed in a local facility who violates the provisions of T.C.A. § 41-2-148 regarding inmate labor for private purposes, upon such person's first such conviction therefor, commits a misdemeanor and shall be punished by a fine equal to the value of the services received from the inmate or inmates and imprisonment for not less than 30 days nor more than 11 months and 29 days. Upon a second or subsequent conviction for a violation of T.C.A. § 41-2-148, such sheriff, jailer or other person is guilty of a felony and shall be punished by a fine of not less than the value of the services received from the inmate or inmates nor more than \$5,000 and imprisonment for not less than one nor more than five years. If the person violating T.C.A. § 41-2-148 for the second or subsequent time is a public official, in addition to the punishment set out above such person shall immediately forfeit his office and shall be forever barred from holding public office in this state. T.C.A. § 41-2-148(d)(1).

Any private citizen, corporation, partnership or other business knowingly and willfully using inmate labor in violation of T.C.A. § 41-2-148(b) commits a Class A misdemeanor and, upon conviction, shall be punished by a fine of \$1,000 and by imprisonment for not more than 11 months and 29 days. Each day inmate labor is used in violation of T.C.A. § 41-2-148(b) constitutes a separate offense. T.C.A. § 41-2-148(d)(2).

In the case of *In re Williams*, 987 S.W.2d 837 (Tenn. 1998), the Tennessee Supreme Court heard the appeal of Judge Billy Wayne Williams from the Court of the Judiciary's judgment recommending that he be removed from the office of general sessions court judge of Lauderdale County. Judge Williams had, among other things, used an inmate from the county jail to help build a house for his son.

"Judge Williams asserted that he was unaware that the practice of using prison labor for personal work was illegal. He believed that he had committed no impropriety because other county officials had also used prison labor as an 'informal work release program.' Although several other witnesses testified that private individuals in Lauderdale County had a long standing practice of using inmate labor for personal work, it was undisputed that Lauderdale County did not have a formal, approved work release program." *Id.* at 838-839.

Noting that the use of an inmate for a private purpose is a criminal offense, the court found that neither assertion constituted a defense to the disciplinary charges and held that the judge's use of an inmate from the county jail to help build a house for his son violated several canons of the Code of Judicial Conduct. *Id.* at 841-842. The Supreme Court affirmed the Court of the Judiciary's recommendation that Judge Williams be removed from office. *Id.* at 844.

Forcing an inmate to perform work that inures solely to an individual's private benefit, as opposed to the public benefit, is not as plainly allowed under the 13th Amendment's exception for work imposed as punishment for crime. *Anderson v. Morgan*, 898 F.2d 144 (Table) (4th Cir. 1990), *citing Matthews v. Reynolds*, 405 F.Supp. 50 (W.D. Va. 1975).

In *Jordan v. State ex rel. Williams*, 397 S.W.2d 383 (Tenn. 1965), a county commissioner was ousted for utilizing for his own benefit equipment and supplies of the Shelby County Penal Farm and labor of its inmates.

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