Technical Bulletins: New Law Changes the Definition of Police Officer and Sets for Auxiliary/Reserve Officers in Tennessee

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NEW LAW CHANGES THE DEFINITION OF POLICE OFFICER
AND SETS STANDARDS FOR AUXILIARY/RESERVE OFFICERS
IN TENNESSEE

by Joe Muscatello

If your police department uses part-time, temporary, reserve, auxiliary officers, you should be aware of the following information. There have been changes in Tennessee Code Annotated (TCA) and the Rules of Tennessee Peace Officer Standards and Training (P.O.S.T.) Commission. These changes might impact your city.

During the 1988 session of the Tennessee General Assembly an act, (Public Chapter 968), was passed to (1) amend the definition of a police officer, (2) to provide standards for the use of part-time, special, reserve, and auxiliary officers and (3) to amend TCA, Title 38, Chapter 8.

Section One of the new law provides for the deletion of TCA in its entirety and substitutes instead the following:

(a) Full-time Police Officer is defined as any person employed by any municipality or political subdivision of the state of Tennessee whose primary responsibility is the prevention and detection of crime, apprehension of offenders, and whose primary source of income is derived from employment as a police officer.

(b) Part-time/Temporary/Reserve/Auxiliary/Police Officer is defined as any person employed by any municipality or any political subdivision of the state of Tennessee whose primary responsibility is to support the full-time police officer in the prevention and detection of crime, apprehension of offenders, assisting in the prosecution of offenders for appropriate remuneration in measure with specifically assigned duties and/or job description. Part-time police officers will work no more than 20 hours per week for a total of more than 100 hours per month. Any police officer who works in excess of the maximum hours as specified herein will be reclassified to
a full-time status and must meet all requirements for standards/training as mandated under the law and peace officer standards and training commission rules. Provided however, in any situation where an officer is temporarily assigned, for a period of one (1) month or less, to work more than twenty (20) hours per week for a total of more than one hundred (100) hours per month, such officer shall not be reclassified to a full-time status.

(c) Special Deputy is defined as any person who is assigned specific police functions as to the prevention and detection of crime and general laws of this state on a volunteer basis, whether working alone or with other police officers. Any police officer working on a volunteer basis shall receive no pay or benefits except for honorariums and may be utilized for an unlimited number of hours.

Section Two of the Act amends TCA, Section 38-8-106, by deleting the words "police officer" between the words "a" and "shall" in the second line and by substituting instead the following "full-time police officer, and after January 1, 1989, any person employed/utilized as a part-time/temporary/reserve/auxiliary police officer or as a special deputy." This section of the Act prescribes that auxiliary officers possess the same qualifications for employment, listed in TCA 38-8-106, as now required of full-time officers.

The P.O.S.T. Commission in its regulations, the Rules of Tennessee Peace Officer Standards and Training Commission, Chapter VIII, Part-time/Temporary/Reserve/Auxiliary Police Officers, lists provisions that deal with the requirement and designation of other than full-time police officers. Specifically, under Section 110-8-03, P.O.S.T. Training Requirements, states "after January 1, 1989, any person newly employed/utilized as a part-time/temporary/reserve auxiliary police officer, or special deputy, shall receive 40 hours of training in whatever duties they are required to perform by the employing agency. This training shall be accomplished during the first calendar year of employment." Next, the provision provided under Section 110-8-04, In-service Training, states "after the initial training has been completed, all part-time/temporary/reserve/auxiliary police officers and special deputies will be required to attend 40 hours of in-service training each calendar year. This training must be spread over a 12-month period, however it must be completed during the calendar year."

Another provision of the P.O.S.T. Commission regulations worth noting is Section 110-8-05, Records Kept by Employing Agency, which states that all records pertaining to pre-employment must be kept by the employing agency. The following information must be maintained on file by the law enforcement agency:

1. Birth verification
2. Proof of citizenship
3. Background records
4. Fingerprint information
5. Physical examination
6. Moral character check
7. Psychological examination
8. Training records as they apply to both pre-employment and in-service.

Please be sure to review these changes in TCA and P.O.S.T. Commission regulations. Make sure your city's police department is in compliance with Tennessee law and regulations.

Further Information

If you have any questions concerning the status or definition of auxiliary or reserve officers, please contact Joe Muscatello, Senior Program Consultant in Knoxville at (615) 974-5301, or your MTAS Municipal Consultant.
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