



County Technical Assistance Service

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Child Custody Transfer Orders

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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Table of Contents

Child Custody Transfer Orders	3
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Child Custody Transfer Orders

Reference Number: CTAS-1310

These orders are surely the most disturbing judicial orders deputies execute. They are often distressing for everyone present, including the officers charged with the duty to effect the transfer. Custody transfer orders require the sheriff to take physical custody of a child and place that child in the hands of the party directed by the court.

The transfer may be ordered pursuant to a judicial determination that the child has been abandoned or is subjected to or threatened with abuse. T.C.A. § 36-6-219(a). It may be initiated by an order for immediate physical custody, issued because the petitioner has properly registered a foreign decree, and the petition has been verified pursuant to T.C.A. §§ 36-6-229 through 234. Or, where a petition seeking enforcement of a custody determination is filed and the petitioner files a verified application, the court may issue a warrant for immediate physical custody if the child is in imminent danger of serious physical harm or is about to be removed from Tennessee. T.C.A. § 36-6-235(a).

A warrant to take physical custody of a child is enforceable throughout the state and may authorize officers to enter private property to take custody. If required by exigent circumstances, officers may make a forcible entry at any hour. T.C.A. § 36-6-235(e). The officer must serve the respondent with the petition, warrant, and order immediately after the child is taken into physical custody. T.C.A. § 36-6-235(d).

Below are a few guidelines for facilitating child custody transfers that may help protect the child's physical and emotional safety while minimizing the problems likely to be encountered during the transfer process.

1. Coordinate the transfer closely with the party taking physical custody in order to confirm the child's identity and make the transfer as quickly as reasonably possible. The person taking custody should wait nearby but out of the respondent's sight so as to avoid confrontation.
2. Never send a lone officer to execute a warrant for physical custody. Ideally, the transfer should be facilitated by a team of no fewer than three officers. It may take two or more to restrain the respondent and at least one more to transport the child to the petitioner.
3. Act quickly and efficiently. Officers should not allow the respondent to engage them in discussion or argument. While the respondent may consent to a peaceful surrender for the sake of the child, and negotiations to that end are desirable, they should be not be prolonged.
4. If the child is to be transported in a sheriff's vehicle, he or she must be properly restrained by a seatbelt or in an age and size appropriate child safety seat.
5. Young children may be consoled by a small stuffed animal, doll, or book. Officers should calmly reassure and comfort the child, who may appear calm while suffering severe emotional shock. Some agencies have found it helpful to use at least one female officer where available, as many children feel less threatened if there is a female presence.

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