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Sequence Number: 08-14-09  
 Rule ID(s): 1335-4336  
 File Date: 08/31/2009  
 Effective Date: 9/29/2010

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §4-5-205 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.*

**Agency/Board/Commission:** Tennessee Department of Correction  
**Division:** Administrative Services  
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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0420-01-02	Release of Inmate Records Information
Rule Number	Rule Title
0420-01-02-.05	Processing of Request for Inmate Information

Chapter Number	Chapter Title
0420-01-03	Charges for Producing Copies of Public Records
Rule Number	Rule Title
0420-01-03-.01	Purpose
0420-01-03-.02	Definitions
0420-01-03-.03	Production Costs
0420-01-03-.04	Copying Costs
0420-01-03-.05	Labor Costs
0420-01-03-.06	Delivery Costs
0420-01-03-.07	Payment of Production Costs
0420-01-03-.08	Waiver of Production Costs
0420-01-03-.09	Requests for Copies Following Inspection

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

## Amendments

Rule 0420-001-02-05 Processing of Request for Inmate Information is amended by deleting the current language in its entirety and substituting the following language so that as amended the rule shall read:

0420-01-02-.05 PROCESSING OF REQUEST FOR INMATE INFORMATION. The manager of the Department's operational support services section, or a designee, will be responsible for gathering and initially reviewing the requested inmate information and will respond directly to information requests originating from members of correctional, law enforcement, judicial or social services agencies. The public information officer shall respond to all other requests for inmate information after obtaining the desired information from the operational support services manager/designee. Charges for copies of records shall be assessed in accordance with Rule 0420-01-3 Charges for Producing Copies of Public Records.

### New Rules

#### Rules of

#### The Tennessee Department of Correction Administrative Services Division

#### Chapter 0420-01-3 Charges for Producing Copies of Public Records

#### Table of Contents

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0420-01-3-.04 Copying Costs	0420-01-3-.09 Requests for Copies Following Inspection
0420-01-3-.05 Labor Costs	

0420-01-3-.01 Purpose. Following the publication of the Schedule of Reasonable Charges for Copies of Public Records developed by the Office of Open Records Counsel pursuant to Tenn. Code Ann. § 8-4-604(a), these Rules are promulgated for the purpose of establishing and implementing charges for producing copies of public records of the Tennessee Department of Correction. Other statutory provisions, such as Tenn. Code Ann. § 10-7-506(c), describe charges that may be assessed when specific records are requested for a specific use.

Authority: T.C.A. §§ 4-3-603; 4-3-606; 10-7-503(a).

#### 0420-01-3-.02 Definitions.

- (1) "Labor" means the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.
- (2) "Labor threshold" means the labor of the employee(s) reasonably necessary to produce requested records for the first hour incurred by the Department in producing the records.
- (3) "Production costs" means all reasonable costs the Department incurred to produce the public records requested by the requesting party. Production costs include copying costs, labor costs, and delivery costs, as described in these Rules.
- (4) "Public record" means any record of the Department that is required to be open to inspection under the provisions of the Tennessee Public Records Act, Tenn. Code Ann. §§ 10-7-501 et seq.
- (5) "Public Records Designee" or "PRD" means the person at each institution or other unit of the Department who receives and coordinates public records requests and maintains documentation of public records requests, responses, and charges.

information, history of the Department, biographical data for Department employees, Department policies and procedures, general facts and figures about the Department, and similar information.

Authority: T.C.A. §§ 4-3-603; 4-3-606; 10-7-503(a).

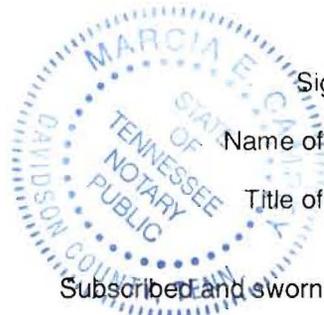
0420-01-3-.09 Requests For Copies Following Inspection. The PRD shall not assess a charge to inspect public records, unless otherwise required by law. However, if the requesting party, after requesting to inspect public records, requests copies of public records, the PRD shall charge the requesting party for all production costs.

Authority: T.C.A. §§ 4-3-603; 4-3-606; 10-7-503(a).

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on \_\_\_\_\_ (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.



Date: 3-11-09

Signature: *George M. Little*

Name of Officer: George M. Little

Title of Officer: Commissioner

Subscribed and sworn to before me on: 3-11-09

Notary Public Signature: *Marcia E. Casper*

My commission expires on: July 25, 2009

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

*Robert E. Cooper, Jr.*

Robert E. Cooper, Jr.  
Attorney General and Reporter

8-25-09

Date

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Filed with the Department of State on: 8/31/09

Effective on: 1/29/10

*Tre Hargett by [Signature]*

Tre Hargett  
Secretary of State

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**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule establishes the Department of Correction's charges for producing copies of public records consistent with the Schedule of Reasonable Charges for Copies of Public Records established by the Office of Open Records Counsel.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 1179 of the Acts of 2008 amended the Tennessee Public Records Act, §§ 10-7-503, et seq., to, among other things, require the Office of Open Records Counsel to develop a Schedule of Reasonable Charges for Copies of Public Records. The act further provides that upon issuance of the schedule, a records custodian may charge for copies or duplication of public records only pursuant to a properly adopted rule.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rule affects members of the public generally. It is unknown whether any such members of the public urge adoption or rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Debra K. Inglis, General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Debra K. Inglis, General Counsel

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

6th Floor, Rachel Jackson Bldg., 320 6th Avenue N., Nashville, TN 37243-4065

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.