S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

May 16, 2006

Opinion No. 06-092

Deputy Sheriffs Disqualified to Serve as Bondsmen in Any District or County

QUESTION

Does Tenn. Code Ann. § 40-11-128 disqualify a deputy sheriff from being a bondsman in any district or county?

OPINION

Yes. Tenn. Code Ann. § 40-11-128 prohibits deputy sheriffs from serving as bail bondsmen in any district or county in Tennessee. The statute does not limit the prohibition of deputy sheriffs from being bail bondsmen to the counties where the deputy sheriffs are located or commissioned.

ANALYSIS

Tenn. Code Ann. § 40-11-128 (2003) provides as follows:

> The following persons or classes shall not be bail bondsmen or agents of bail bondsmen or surety companies and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, attorneys, police officers, convicted felons, committing magistrates, municipal or magistrate court judges, clerks or deputy clerks, sheriffs, deputy sheriffs and constables, and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners.

Tenn. Code Ann. § 40-11-128.

Based upon a plain reading of the statute, deputy sheriffs "shall not be bail bondsmen or agents of bail bondsmen." *Id*. The statute does not limit such prohibition to the counties where those deputy sheriffs are commissioned. *Id.* Indeed, the statute does not limit the prohibition of any of the "persons or classes" set forth in the statute to particular districts or counties in Tennessee. *Id.* If the legislature had wanted to limit the prohibition to the county where a deputy sheriff was commissioned, it could have expressly done so in the statute.

Accordingly, it is the opinion of this office that Tenn. Code Ann. § 40-11-128 prohibits deputy sheriffs from serving as bail bondsmen in any district or county in Tennessee.

PAUL G. SUMMERS
Attorney General

MICHAEL E. MOORE
Solicitor General

DAVID E. COENEN
Assistant Attorney General

Requested by:

Honorable Randy S. Rinks
Majority Caucus Chairman
Tennessee House of Representatives
18 Legislative Plaza
Nashville, Tennessee 37243-0171