



# TACP

## LEGISLATIVE REPORT

EXECUTIVE DIRECTOR: MAGGI McLEAN DUNCAN

### LEGISLATION THAT PASSED IN 2010 (by legislative topic)

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#### ALCOHOLIC BEVERAGES

**SB 3330**  
McNally  
[HB 3355](#)  
Hackworth

**Background checks for applicants for beer permits.** Authorizes criminal background checks that may include fingerprint checks with the TBI or FBI for applicants for beer permits.

TCA Sec. 57-05-0103

[Public Chapter \(PDF\)](#)

**Senate Status:** Senate passed 05/24/2010.

**House Status:** House passed 04/19/2010.

**Other Status:** Enacted as Public Chapter 1002 (effective 07/01/2010).

#### ANIMALS & ANIMAL HUSBANDRY

**SB 3540**  
Ketron  
**HB 3913**  
Lundberg

**Violation of animal custody restrictions.** Creates a Class A misdemeanor offense for a person who was previously convicted of cruelty to animals if such person subsequently violates a restriction imposed by the sentencing court, including not surrendering custody of the animal or animals.

TCA Sec. 39-14-0202

[Public Chapter \(PDF\)](#)

**Senate Status:** Senate passed 04/12/2010.

**House Status:** House passed 04/12/2010.

**Other Status:** Enacted as Public Chapter 0816 (effective 07/01/2010).

**SB 3715**  
Haynes J.  
**HB 3383**  
Sontany

**Destruction of dangerous dogs by local governments.** Authorizes Davidson County, to the same extent Shelby County is authorized under present law, to adopt local ordinances allowing the district attorney for the county to petition in general sessions court for the disposition of dangerous dogs or dogs causing death to humans or other animals.

**Amendment:** House amendment 1 substitutes, "in accordance with Rule 4.01 of the Tennessee rules of civil procedure", for the original language, "as in civil cases." TCA Sec. 44-17-0120

[Public Chapter \(PDF\)](#)

**Senate Status:** Senate 04/29/2010 concurred in House amendment 1.

**House Status:** House 04/22/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0882 (effective 05/05/2010).

## COMMERCIAL LAW

### **SB 3407**

Burchett

### **[HB 3523](#)**

Harwell

### **[Public Chapter](#)**

**[\(PDF\)](#)**

**Installation of covered file-sharing programs.** Prohibits the installation or downloading of covered file-sharing programs on a computer without providing clear and conspicuous notice to the owner that files will be publicly available. Makes such practices a violation of the Tennessee Consumer Protection Act.

**Amendment:** Senate amendment 1 rewrites the bill. Defines "covered file-sharing program." Adds, as an unfair or deceptive act or practice under the Tennessee Consumer Protection Act of 1977, the installation of, offering for installation, or making available for installation, reinstallation, or update a covered file-sharing program on a computer that is not owned by the person who installs, offers for, or makes available for installation, reinstallation, or update without prior notice that all files will be available to the public without affirmative action by the owner of the computer. Also, preventing reasonable efforts to disable or remove, or to block the installation or execution of, a covered file-sharing program on a computer is a violation.

TCA Secs. 47-18-0103; 47-18-0104

**Senate Status:** Senate 02/18/2010 passed with amendment 1.

**House Status:** House passed 04/05/2010.

**Other Status:** Enacted as Public Chapter 0779 (effective 04/16/2010).

## CORRECTIONS

### **[SB 2825](#)**

Ford O.

### **HB 2913**

Cooper B.

### **[Public Chapter](#)**

**[\(PDF\)](#)**

**Study of inmates age 65 or older.** Requires the commissioner of correction to study the characteristics of inmates incarcerated in correctional institutions of the department who are nonviolent offenders age 65 or older and report to the select oversight committee on corrections.

**Amendment:** House amendment 1 urges rather than requires the study. Senate amendment 1 urges the commissioner of correction to undertake the study instead of requiring the commissioner to undertake the study. This amendment also specifies if the select oversight committee on corrections is no longer in existence on the date the report is due then the commissioner shall report to the house and senate state and local government committees.

**Joint Oversight Committee on Corrections:** The Department does not currently have information on housing and medical costs specific to non-violent inmates age 65 or older. This information could help in determining the most cost effective way to house older non-violent inmates and still protect public safety.

TCA Sec. 41-21-0000

**Senate Status:** Senate 04/07/2010 passed with amendment 1.

**House Status:** House 04/08/2010 concurred in Senate amendment 1.

**Other Status:** Enacted as Public Chapter 0813 (effective 04/20/2010).

### **[SB 2827](#)**

Ford O.

### **HB 2915**

Cooper B.

**Comptroller to study certain inmates in county jails.** Requires the comptroller of the treasury to study county jails throughout the state concerning the number of nonviolent offenders in county correctional institutions who have been incarcerated for offenses for which they have not been convicted.

**Amendment:** Senate amendment 1 changes the word "requires" to "urges."

[Public Chapter](#)  
[\(PDF\)](#)

**Joint Oversight Committee on Corrections:** There are several categories of people in county correctional institutions for reasons other than being convicted of a crime. The objective of this legislation is unclear.

TCA Sec. 41-21-0000

**Senate Status:** Senate 04/07/2010 passed with amendment 1.

**House Status:** House passed 04/08/2010.

**Other Status:** Enacted as Public Chapter 0805 (effective 04/20/2010).

**[SB 3905](#)**

Kyle

**[HB 3792](#)**

Turner M.

[Public Chapter](#)  
[\(PDF\)](#)

**Correctional officers: extended time to receive training.** Extends the time period from six to nine months, in which correctional officers must complete appropriate job training before the first day of employment. (Part of Administration Package)  
**Amendment:** House amendment 1 rewrites the bill. Extends the TN Criminal Justice Coordinating Council to June 30, 2011. Creates a council of 19 members with staggered terms for members. Authorizes the council to plan, research, and evaluate activities to improve the criminal justice system operations and coordination.

TCA Secs. 04-29-0232; 41-00-0000

**Senate Status:** Senate passed 05/27/2010.

**House Status:** House 05/05/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 1022 (effective 07/01/2010).

## CRIMINAL LAW

**[SB 0555](#)**

Norris

**[HB 0238](#)**

DeBerry J.

[Public Chapter](#)  
[\(PDF\)](#)

**Felons convicted of violent crimes cannot have vicious dogs.** Prohibits a person who has been convicted of a felony involving the use or attempted use of force, violence or a deadly weapon from knowingly possessing a vicious dog.

**Amendment:** Senate amendment 1 makes it a Class A misdemeanor offense for a person who has been convicted of a violent felony to own, possess, or have custody or control of a vicious dog or a potentially vicious dog. This amendment redefines "vicious dog" to mean any dog that without provocation and off the property of the owner or keeper of the dog, has attacked a person causing death or serious bodily injury to such person. This amendment defines "potentially vicious dog" to mean a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors: (1) When unprovoked and off the property of the owner or keeper of the dog, inflicts a bite causing bodily injury to a person or domestic animal; or (2) When unprovoked and off the property of the owner or keeper of the dog, on two or more separate occasions, chases, menaces or approaches a person or domestic animal in an aggressive manner or apparent attitude of attack. This amendment removes the following offenses from the definition of "violent felony" for which a conviction will make a person subject to this bill's limitations on dog ownership: being present as a spectator at a cockfight or other animal fight and cruelty to animals. This amendment removes the requirement that persons convicted of a violent felony not reside in a residence with a vicious dog for 10 years from the person's release. This amendment clarifies that a person will be able to raise an affirmative defense to a charge of having a dog that is not properly microchipped by presenting competent veterinary evidence that the dog was microchipped. This amendment increases the time within which a person who is charged with having an un-spayed, un-neutered or un-microchipped dog under

this bill as amended may have such condition rectified and use such action as an affirmative defense from seven to 30 days from the date of the charge. House amendment 1 adds a definition for vicious dog and also requires that the dog owner have the dog spayed or neutered within a specific time. House amendment 2 deletes the date "July 1, 2009" and substitutes with the date "July 1, 2010".

TCA Secs. 39-17-1300; 39-17-1363

**Senate Status:** Senate 04/29/2010 passed with amendment 1.

**House Status:** House 05/12/2010 concurred in Senate amendment 1.

**Other Status:** Enacted as Public Chapter 0949 (effective 07/01/2010).

**SB 0565**

Yager

[HB 0414](#)

Windle

[Public Chapter](#)  
[\(PDF\)](#)

**Inmate relations coordinators to carry firearms.** Authorizes vested inmate relations coordinators to carry firearms to same extent as correctional officers.

**Oversight Corrections Committee comment:** Oversight Corrections Committee 03/16/2009 adopted and released to full committee with additional remark that this bill is anticipated to have a minimal impact on corrections because there is no change in current law which grants the commissioner of correction the authority to restrict these individuals from carrying firearms on prison property in accordance with current department of correction policy.

TCA Sec. 39-17-1350

**Senate Status:** Senate passed 03/01/2010.

**House Status:** House passed 04/06/2009.

**Other Status:** Enacted as Public Chapter 0631 (effective 03/10/2010).

**SB 0842**

Jackson

[HB 0770](#)

Turner M.

[Public Chapter](#)  
[\(PDF\)](#)

**Handgun permit holder allowed to carry gun while bowhunting.** Allows a person with a handgun carry permit to carry a handgun while hunting big game with a bow and arrow during the archery-only deer season.

**Amendment:** House amendment 1 changes effective date to July 1, 2010.

TCA Sec. 70-04-0123

**Senate Status:** Senate passed 02/24/2010.

**House Status:** House 02/22/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0621 (effective 07/01/2010).

[SB 0900](#)

Burks

[HB 1244](#)

Curtiss

[Public Chapter](#)  
[\(PDF\)](#)

**Contributing to delinquency of minor.** Requires an adult convicted of contributing to delinquency of a minor to serve 100 percent of a Class A misdemeanor sentence if the offense involved supplying a substance to a minor that is unlawful for minor to possess and the minor engages in conduct that causes the death of another.

**Amendment:** House amendment 1 changes effective date to July 1, 2010. House amendment 2 renames the bill the Markie Voyles Act.

TCA Sec. 37-01-0156

**Senate Status:** Senate 06/05/2010 concurred in House amendments 1 and 2.

**House Status:** House 06/04/2010 passed with amendments 1 and 2.

**Other Status:** Enacted as Public Chapter 1116 (effective 07/01/2010).

**SB 0913**

Burks

**HB 0218**

Fincher

[Public Chapter \(PDF\)](#)

**Scrap jewelry dealers and stolen good.** Prohibits scrap jewelry dealers from accepting items from anyone who appears intoxicated, is known to be a thief, or to have been convicted of robbery or burglary without first notifying a police officer. Prohibits such dealers from accepting items which are known to be stolen. Establishes procedures for returning property from such third party dealers to individuals claiming to be rightful owners when the property was illegally sold to a dealer. Increases the penalty for not complying with laws governing scrap jewelry dealings from a Class C misdemeanor to a Class A misdemeanor.

**Amendment:** Senate amendment 2, as amended, exempts from the holding and recordkeeping requirements for scrap metal purchases, transactions between dealers when the selling dealer previously complied with such requirements relative to the items sold in the transaction.

TCA Secs. 38-01-0200; 38-01-0201; 38-01-0202; 38-01-0203; 38-01-0204; 38-01-0205

**Senate Status:** Senate 04/30/2009 passed with amendment 2.

**House Status:** House 05/07/2009 concurred in Senate amendment 2, as amended.

**Other Status:** Enacted as Public Chapter 0282 (effective 07/01/2009).

**SB 1113**

Harper

**HB 1277**

Gilmore

[Public Chapter \(PDF\)](#)

**Expungement of records - persons found not guilty.** Requires judge to order, in cases of a verdict of not guilty being returned, that all public records of the person charged are automatically removed and destroyed.

**Amendment:** House amendment 1 directs the judge to ask the person charged upon a verdict of not guilty if they want their records to be removed and destroyed. Requires the records be removed or destroyed if the person indicates so.

**Judicial Council comment:** Judicial Council adopted and released to full committee with additional remark that expunging the records at issue will involve considerable expense, particularly if the acquittal results from an appeal as opposed to an initial verdict, and that the legislation arguably is unnecessary since the statute currently provides a method for seeking expungement of these records. With regard to acquittals which result from appeals, the Council also noted that data regarding criminal convictions is often purchased by third parties who may then transfer the data to other persons/entities, and it will be impossible for state agencies to retrieve this data for removal/destruction. The Council also stated that the sponsor may wish to consider adding a provision which gives the person an opportunity to object to the destruction of his or her records. The Council next suggested that the sponsor may wish to clarify which records must be destroyed. The Council observed that the sponsor may wish to consider amending the language (in the existing statute as well as in the legislation) which requires the removal and destruction of "all public records" and this legislation has the effect of eliminating a cause of action for malicious prosecution since the relevant records would have been destroyed.

TCA Sec. 40-32-0101

**Senate Status:** Senate passed 05/06/2010.

**House Status:** House 05/14/2009 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0951 (effective 05/26/2010).

**SB 1529**

Burchett

**Sexual exploitation of a minor and Internet usage.** Allows the attorney general or the chief deputy to issue a subpoena for production of records related to Internet and

[HB 1257](#)

Tindell

[Public Chapter](#)

[\(PDF\)](#)

computer use in any investigation relating to the sexual exploitation of a minor or aggravated sexual exploitation of a minor. Specifies that such records include e-mail address, Internet usernames, ISP address and Internet history.

**Amendment:** Senate amendment 1, House amendment 1 makes the bill. Authorizes a district attorney general or an assistant district attorney general to issue a subpoena to require production of records related to the Internet or computer use in cases of sexual exploitation of a minor. Requires each district attorney general to report annually to the House and Senate Judiciary Committees certain information regarding administrative subpoenas.

TCA Secs. 40-17-0100; 40-17-0125

**Senate Status:** Senate passed 02/01/2010.

**House Status:** House 05/28/2009 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0613 (effective 02/10/2010).

**SB 1751**

Marrero

[HB 1302](#)

Jones S.

[Public Chapter](#)

[\(PDF\)](#)

**Unlawful restraint, compelling prostitution, pornography.** Declares a person commits the offense of unlawful restraint if the person transports an individual in a manner that is designed to conceal the individual from law enforcement, creates a substantial likelihood of bodily injury or death, or the individual is restricted in movement without consent. Creates Class E felony for the offense of unlawful restraint and a Class D felony if such offense results in death. Declares a person commits the offense of compelling prostitution if the person knowingly causes an individual by force or threat to commit prostitution. Creates Class E felony for the offense of compelling prostitution and a Class D felony if such offense involves an individual younger than 18. Declares a person commits the offense of compelling production of pornography if through force or threat causes an individual to undress, have pornographic photographs taken of them or perform sexual acts on film. Creates a Class E felony for the offense of compelling production of pornography. Establishes civil liability for trafficking offenses.

**Amendment:** Senate amendment 2 rewrites the bill. Directs the Select Committee on Children and Youth (SCCY) to study all issues associated with human sex trafficking and report its findings and recommendations to the House of Representatives and the Senate Judiciary Committees by March 1, 2011. Requires all appropriate state and local agencies to provide assistance to the SCCY upon request of the Chair.

TCA Secs. 39-00-0000; 40-00-0000

**Senate Status:** Senate 05/10/2010 passed with amendment 2.

**House Status:** House passed 06/04/2010.

**Other Status:** Enacted as Public Chapter 1023 (effective 06/09/2010).

**SB 2236**

Kyle

[HB 2249](#)

Fincher

[Public Chapter](#)

[\(PDF\)](#)

**Eligibility for handgun permit.** Establishes that upon receiving information that an applicant or a permit holder does not meet the eligibility requirements, the department must review the arrest records with the arresting agency and must also review any records of conviction with the court of conviction to determine if the applicant or holder meets the eligibility requirements. Broadly captioned. (Part of Administration Package.)

**Amendment:** House amendment 4 rewrites the bill to require courts in which commitments to a mental institution are ordered pursuant to present law regarding mental health services or security units and forensic services, or in which persons are

adjudicated as mental defective, to enter a standing and continuing order instructing the clerk to collect and report January 1, April 1, July 1, and October 1, of every year beginning January 1, 2010, the following information regarding individuals who have been adjudicated as a mental defective or judicially committed to a mental institution: (1) Complete name and all aliases of the individual judicially committed, including, but not limited to, any names that the individual may have had or currently has by reason of marriage or otherwise; (2) Case or docket number of the judicial commitment or the adjudication as a mental defective; (3) Date judicial commitment ordered or adjudication as a mental defective was made; (4) Private or state hospital or treatment resource to which the individual was judicially committed; and (5) Date of birth of the individual judicially committed or adjudicated as a mental defective, if such information has been provided to the clerk. The information would be reported to the FBI-NICS index and the department of safety. Requires that such information be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for use as may be necessary in the conduct of any proceedings under the present law provisions governing the sale of firearms and the revocation or suspension of a handgun carry permit. Requires any clerk of court that maintains records of an adjudication as a mental defective or a judicial commitment to a mental institution as described above to disclose the information described above in (1)-(5). Specifies that a violation of this provision a Class C misdemeanor. Clarifies that a person may not obtain a handgun carry permit if the person has been "judicially committed to a mental institution" instead of "committed to or hospitalized in a mental institution." Requires the department to revoke or suspend the handgun carry permit upon a showing by its records or other sufficient evidence that the permit holder has been judicially committed to a mental institution as described above or has been adjudicated as a mental defective. Clarifies that a person who has been judicially committed to a mental institution or adjudicated as a mental defective, as described in federal law regarding firearms, would be prohibited from purchasing a firearm. Present law authorizes a hospital or treatment resource to admit and detain a person for the emergency diagnosis, evaluation, and treatment of that person in certain circumstances. Present law requires the general sessions court where the hospital or treatment resource is located to give notice of the time and place of any probable cause hearing on such admission by mail to the defendant, the defendant's attorney, the chief officer of the hospital or treatment resource, and the parent, legal guardian, conservator, spouse or adult next of kin of the defendant. This amendment additionally requires that the court give notice of the following to such persons: (1) The defendant's rights, including but not limited to, right to counsel, right to waive a hearing, right to confront and cross-examine witnesses, right to be protected from compelled self-incrimination; (2) The status of the defendant if judicially committed, including: (A) The person's prohibition of purchasing a firearm; (B) The person's prohibition of obtaining a handgun carry permit; and (C) The suspension or revocation of a handgun carry permit once judicially committed to a hospital or treatment resource pursuant to this title; (3) The person's right to appeal the prohibition against purchasing a firearm under present law; and (4) The person's right to appeal the denial of a handgun carry permit under present law. Under this amendment, "adjudication as a mental defective" means: (1) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease: (A) Is a danger to such person or to others; or (B) Lacks the ability to contract or manage such person's own affairs; (2) A finding of insanity by a court in a criminal proceeding; or (3) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to the

federal Uniform Code of Military Justice. The provisions of this amendment would take effect on January 1, 2010.

TCA Secs. 16-10-0200; 16-10-0213; 16-11-0200; 16-11-0206; 16-15-0303; 16-16-0100; 16-16-0120; 33-03-0100; 33-03-0115; 33-03-0116; 33-06-0400; 33-06-0413; 39-17-1301; 39-17-1316; 39-17-1351; 39-17-1352

**Senate Status:** Senate passed 06/16/2009.

**House Status:** House 06/09/2009 passed with amendment 4.

**Other Status:** Enacted as Public Chapter 0578 (effective 01/01/2010).

**SB 2334**

Jackson

**[HB 2376](#)**

Shepard

[Public Chapter](#)  
[\(PDF\)](#)

**Disposition of confiscated weapons.** Deletes requirement that weapon declared contraband is to be destroyed if not sold at public sale or used for legitimate law enforcement purposes. Requires the proceeds from the sale of confiscated weapons to go into the county or municipal general fund and to be allocated solely for law enforcement purposes.

**Amendment:** House amendment 1 allows the chief of police, sheriff, commissioner of safety or the director of the TBI to determine those weapons that are inoperable and can certify to court those weapons that are inoperable and can be destroyed. Senate amendment 2 specifies that the funds collected pursuant to this bill will go to the general fund and will not be earmarked for law enforcement purposes.

**Conference Committee:** Conference Committee Report on HB 2376/SB 2334 recommends that Senate amendment 2 be deleted and that House amendment 1 be adopted.

TCA Sec. 39-17-1317

**Senate Status:** Senate 02/17/2010 adopted conference committee report.

**House Status:** House 06/18/2009 adopted conference committee report.

**Other Status:** Enacted as Public Chapter 0629 (effective 04/19/2010).

**[SB 2391](#)**

Jackson

**[HB 3240](#)**

McCord

[Public Chapter](#)  
[\(PDF\)](#)

**Limits governor's authority during state of emergency.** Removes the authority of the governor to limit the sale or transportation of firearms, ammunition, or firearm or ammunition components during a state of emergency, major disaster, or natural disaster.

TCA Sec. 58-02-0107

**Senate Status:** Senate passed 04/05/2010.

**House Status:** House passed 04/22/2010.

**Other Status:** Enacted as Public Chapter 0885 (effective 05/10/2010).

**SB 2545**

Bunch

**[HB 2506](#)**

Matlock

[Public Chapter](#)  
[\(PDF\)](#)

**Radio receiving emergency voice transmissions: crimes.** Establishes that it is a criminal offense, ranging from a Class A misdemeanor to a Class E felony, for a person to use a radio capable of receiving emergency voice transmissions in the following ways: possess such radio, if the person has at least one felony in the past five years; possess such radio during the commission of a crime; use such radio's information to commit a crime; or use such radio's information to interfere with law enforcement purposes.

**Amendment:** House amendment 3 rewrites the bill. Creates a new Class A misdemeanor for a person knowingly to intercept any radio frequency transmission with

the intent to use the intercepted transmission to commit, facilitate, or aid in the flight from a criminal offense. Defines "radio frequency transmission" as any radio transmission made by a law enforcement, fire fighting, emergency medical, federal, state or local corrections, or homeland security official during the course of the official's duties.

TCA Secs. 39-13-0600; 39-13-0608

**Senate Status:** Senate passed 05/10/2010.

**House Status:** House 04/07/2010 passed with amendment 3.

**Other Status:** Enacted as Public Chapter 0953 (effective 07/01/2010).

**SB 2882**

Crowe

**[HB 2872](#)**

Hill

**[Public Chapter](#)**

**[\(PDF\)](#)**

**Rachel Clawson Act of 2010.** Makes failure to exercise due care in a construction zone or a school safety zone that results in death the same as vehicular homicide and is punishable as Class D felony.

**Amendment:** Senate amendment 1 deletes Sections 2 and 3 of the original bill. Creates a Class D felony offense of vehicular homicide if a driver fails to exercise due care, or inadvertence or inattention, in a construction or school safety zone. House amendment 2 deletes all language after the enacting clause. Creates a Class D felony offense of vehicular homicide if a driver fails to exercise due care, or inadvertence or inattention, in a construction zone and the person killed was an employee of the Department of Transportation (TDOT) or a highway construction worker. House amendment 4 deletes all language after the enacting clause. Creates a Class D felony offense of vehicular homicide that is the proximate result of a driver's conduct in a posted construction zone where the person killed was an employee of the Department of Transportation or a highway construction worker.

TCA Sec. 39-13-0213

**Senate Status:** Senate 06/09/2010 concurred in House amendments 2 & 4.

**House Status:** House 06/09/2010 passed with amendment 4.

**Other Status:** Enacted as Public Chapter 1120 (effective 07/01/2010).

**SB 2901**

McNally

**HB 3538**

Maddox

**Increases mandatory drug testing fee.** Increases mandatory drug testing fee from \$100 to \$250 upon a conviction of or upon the granting of pretrial or judicial diversion.

**Amendment:** House amendment 1 increases the drug testing fee assessed by the Tennessee Bureau of Investigation from \$100 to \$250.

**[Public Chapter](#)**

**[\(PDF\)](#)**

TCA Sec. 39-17-0420

**Senate Status:** Senate passed 05/24/2010.

**House Status:** House 05/20/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 1004 (effective 07/01/2010).

**SB 2902**

McNally

**HB 3537**

Maddox

**TBI laboratory fees.** Assigns new fees to be adjudged as part of the costs in each case upon conviction of offenses of possession of controlled substances, narcotics or drugs; or conviction of driving under the influence while operating a motor vehicle or boat; or for certification of criminal histories and records; or any case requiring DNA testing. Further, allocates proceeds from such fees to a fund for use by the bureau for training and development of its officers and for the purchase of equipment and supplies.

**[Public Chapter](#)**

[\(PDF\)](#)

**Amendment:** House amendment 2 deletes the language of the original bill. Removes the \$20 and \$100 fees for pieces of evidence or DNA exhibits submitted to the TBI for analysis. Authorizes court clerks to collect a five percent fee upon the forfeiture of a cash bond or other surety entered as a result of a traffic citation.

TCA Sec. 38-06-0103

**Senate Status:** Senate passed 05/24/2010.

**House Status:** House 05/20/2010 passed with amendment 2.

**Other Status:** Enacted as Public Chapter 1019 (effective 07/01/2010).

**SB 2903**

McNally

[HB 2941](#)

Hackworth

**Missing senior citizen alert program.** Revises missing senior citizen alert program to remove age and other requirements for the citizen and to urge the search for such persons to begin immediately.

**Amendment:** House amendment 2 rewrites the bill. Deletes the missing senior citizen alert program. Creates a missing senior citizen alert program for persons with dementia or physical impairment. Requires local law enforcement agencies to verify a person is missing, enter the information in to the National Crime Information Center, identify and maintain additional local resources that can be utilized, such as reserve units and K-9 units, and requires law enforcement to send alerts to designated media at their discretion. Urges the TBI, the Tennessee Association of Chiefs of Police, and the Tennessee Sheriffs' Association to educate law enforcement about this program through newsletters, press releases, and instruction through the Department of Commerce and Insurance's Tennessee Law Enforcement Training Academy.

[Public Chapter](#)

[\(PDF\)](#)

TCA Sec. 38-06-0121

**Senate Status:** Senate passed 03/24/2010.

**House Status:** House 03/22/2010 passed with amendment 2.

**Other Status:** Enacted as Public Chapter 0733 (effective 07/01/2010).

**SB 2982**

Tate

[HB 2968](#)

Jones U.

**Synthetic cannabinoids prohibited.** Broadens the Class A misdemeanor offense for a person knowingly to produce, manufacture, distribute, or possess the hallucinogenic plant salvia divinorum A to include synthetic cannabinoids JWH-018, JWH-073, and HU-210.

**Amendment:** Senate amendment 1 creates Class A misdemeanor for production, manufacture, distribution, possession, or possession with intent to produce, manufacture, or distribute any combination of chemical compounds that constitute synthetic cocaine. House amendment 1 removes the provisions of Senate amendment 1, changes the reference from "salvia divinorum A" to "salvia divinorum," adds HU-211 to the list of synthetic cannabinoids subject to this bill, and changes this bill's effective date from "upon becoming law" to "July 1, 2010." House amendment 2 specifies that the provisions of the bill concerning the synthetic cannabinoids JWH-018, JWH-073, HU-210 and HU-211 would not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal food and drug administration.

[Public Chapter](#)

[\(PDF\)](#)

TCA Sec. 39-14-0438

**Senate Status:** Senate 05/13/2010 concurred in House amendments 1 and 2.

**House Status:** House 05/13/2010 passed with amendment 2.

**Other Status:** Enacted as Public Chapter 0922 (effective 07/01/2010).

**SB 2988**

Barnes  
**HB 3263**  
Johnson P.

[Public Chapter  
\(PDF\)](#)

**Sexual offender on school grounds needs written permission.** Requires written permission from school principal or facility administrator before a sexual offender may attend a conference at the school as a parent or provide transportation to the offender's child who attends the school.

**Amendment:** Senate amendment 1 deletes the language of the original bill. Requires a sexual offender to receive written permission from a school's principal or a facility's administrator if attending a conference as a parent or legal guardian of a child who is enrolled at the school or facility or to be on the premises to drop off or pick up a child or children for which the offender is a parent or legal guardian. Creates a Class E felony punishable by fine only for all violations of these provisions.

**Joint Oversight Committee on Corrections:** This would provide the school principal or facility administrator with prior knowledge of the sex offender's presence on campus. Enactment of this bill would have some impact on officer caseload responsibilities if Board of Probation & Parole has to enforce the provisions of this bill. However it should be noted that not all sex offenders are under BOPP supervision after they complete probation, parole or on expiration of sentence.

TCA Sec. 40-39-0211

**Senate Status:** Senate 03/29/2010 passed with amendment 1.

**House Status:** House passed 03/29/2010.

**Other Status:** Enacted as Public Chapter 0750 (effective 07/01/2010).

**SB 3012**

Jackson  
**HB 3125**  
Todd

[Public Chapter  
\(PDF\)](#)

**Possession of handgun in restaurants serving alcohol.** Authorizes a person to carry a firearm in a restaurant licensed by the alcohol beverage commission as long as said person is not consuming alcohol, which would result in a Class A misdemeanor punishable by a minimum incarceration period of 72 hours and a minimum \$500 fine. Allows businesses to post a notice of prohibition of firearms, specifying that violators with a handgun carry permit that consume alcohol in a prohibited area to be charged with a Class A misdemeanor with an incarceration period of not less than 48 hours, a fine not less than \$500, and the revocation of the violator's handgun carry permit. Requires the handgun safety courses to include a one-hour instruction on alcohol and drugs related to firearms.

**Amendment:** SENATE AMENDMENT 1 rewrites the bill. Expands the existing Class A misdemeanor for possession of a handgun while under the influence of alcohol or any controlled substance to include a person possessing a firearm if the person is both in an establishment open to the public where liquor, wine, or other alcoholic beverages are served for consumption on the premises and the person is consuming any such alcoholic beverage. Creates a Class B misdemeanor, punishable by fine only of \$500, for a person to possess a weapon in a building or on property that is properly posted with a handgun restriction notice. Effective September 1, 2010, a component of the classroom portion of all Department of Safety approved handgun courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, the judgment and ability to safely handle a firearm, and the provisions of Tenn. Code Ann. 39-17-1321. Deletes the Class C misdemeanor offense for a person, licensed to sell wine or other alcoholic beverages for on the premises consumption, to post a handgun sign at least six inches high and fourteen inches wide pursuant to Tenn. Code Ann. 57-4-203 and 57-3-204. Defines "language substantially similar to" to mean the sign contains language plainly

stating the property is posted under the authority of Tennessee law; weapons or firearms are prohibited on the property, in the building, or on the portion of the property or building that is posted; and possessing a weapon in an area that has been posted is a criminal offense. A building, property, or a portion of a building or property, shall be properly posted if the international circle and slash symbolizing the prohibition of the item within the circle or the posting sign described by the bill as amended. SENATE AMENDMENT 2 specifies that an individual who violates the prohibition against drinking while armed, in addition to other punishments, will lose the right to a handgun permit for three years. SENATE AMENDMENT 3 specifies certain postage requirements for establishments that choose to prohibits handgun permit holders to bring their weapons into such establishments.

TCA Secs. 39-17-1305; 39-17-1351; 39-17-1359; 57-03-0204; 57-04-0203

**Senate Status:** Senate 05/27/2010 passed motion to override governor's veto.

**House Status:** House passed 06/04/2010 motion to override governor's veto.

**Other Status:** Enacted as Public Chapter 1009 (effective 06/04/2010).

**SB 3169**

Burchett

[HB 3196](#)

Faulkner

**DNA database of juvenile sexual offenders.** Requires the TBI's DNA database to include violent juvenile sexual offenders.

**Joint Oversight Committee on Corrections:** This bill would require certain offenders classified as a "juvenile sex offender" to be subject to the same data base requirements as an adult sex offender and would provide more data for public consumption.

[Public Chapter](#)  
[\(PDF\)](#)

TCA Secs. 38-06-0113; 40-35-0321

**Senate Status:** Senate passed 05/10/2010.

**House Status:** House passed 04/12/2010.

**Other Status:** Enacted as Public Chapter 0964 (effective 07/01/2010).

**SB 3219**

Woodson

[HB 3277](#)

Maggart

**Offense of unlawful photographing - upskirting.** Removes the requirement that the individual must be readily identifiable in order for a violation of unlawful photographing to occur.

**Amendment:** Senate amendment 1 broadens the definition of "penal institution" for the purpose of obstruction of justice offenses to include a court operated longterm residential substance abuse facility.

[Public Chapter](#)  
[\(PDF\)](#)

TCA Secs. 39-13-0601; 39-13-0605

**Senate Status:** Senate 06/05/2010 passed with amendment 1.

**House Status:** House passed 06/08/2010.

**Other Status:** Enacted as Public Chapter 1124 (effective 01/01/2011).

[SB 3246](#)

Tate

**HB 3874**

Jones U.

**Requirements for parents of truant children.** Authorizes prosecutors to allow guardians of children violating truancy laws to attend parent education training and parent-teacher conferences as an alternative to criminal prosecution.

**Amendment:** Senate amendment 1 rewrites the bill. Authorizes a prosecutor to allow parents or guardians, of children against whom a petition of truancy has been brought for being absent more than five days during the school year, to attend parent education training and parent-teacher conferences as an alternative to criminal prosecution.

[Public Chapter](#)  
[\(PDF\)](#)

**Judicial Council comment:** The Judicial Council noted that the bill creates a permissive use of the alternative to prosecution. Members noted that prosecutions under the section to be amended are rare. The Judicial Council did not foresee any serious adverse consequences to the administration of justice.

TCA Sec. 49-06-3009

**Senate Status:** Senate 04/22/2010 passed with amendment 1.

**House Status:** House passed 05/06/2010.

**Other Status:** Enacted as Public Chapter 0929 (effective 07/01/2010).

**SB 3290**

Burchett

[HB 3181](#)

Turner M.

[Public Chapter](#)  
[\(PDF\)](#)

**Classes required for certain sexual offenders.** Requires any sex offender whose primary or secondary residence is in TN or who is a student in TN and whose victim was 15 years or younger to attend a class sponsored by the offender's registering agency. Creates Class A misdemeanor for violation of this legislation.

**Amendment:** Senate amendment 1 rewrites the bill. Prohibits sexual offenders and violent sexual offenders from establishing a residence with three or more like offenders. Prohibits persons owning or controlling any place of habitation to permit three or more sexual or violent sexual offenders from establishing residence together. Exempts certain sex offender treatment facilities from such enforcement.

**Joint Oversight Committee on Corrections:** This bill would require sex offenders to attend a three hour class on registry requirements and any other topic deemed appropriate. The bill requires the class to be conducted on Halloween night between the hours of 5:00PM and 8:00PM when small children are most likely to be in vulnerable circumstances. Sex offenders can register with local law enforcement, BOPP (while under supervision), and the Department of Correction (upon release). Since sex offender training is provided to the registering agencies by the TBI, coordination or clarification of which agency would conduct the class would be helpful to prevent duplication. Current Board of Probation and Parole policy requires sex offenders under their supervision to remain in their homes on Halloween night. They are not allowed to interact with children, cannot wear Halloween costumes and cannot give candy or treats. BOPP officers conduct random home checks to enforce this policy.

TCA Sec. 40-39-0211

**Senate Status:** Senate 06/03/2010 passed with amendment 1.

**House Status:** House passed 06/08/2010.

**Other Status:** Enacted as Public Chapter 1145 (effective 07/01/2010).

**SB 3314**

Kelsey

[HB 2626](#)

Lollar

[Public Chapter](#)  
[\(PDF\)](#)

**Juvenile's prior convictions: class A or B adult felonies.** Specifies that a juvenile court's finding that a juvenile committed an adult's Class A or B felony constitutes a prior conviction for the determination of the juvenile's sentence.

**Judicial Council comment:** The Judicial Council observed that this is a policy matter within the discretion of the legislature. Assuming the state and/or federal courts conclude that the adjudication at issue constitutes a "conviction" for purposes of *Blakely v. Washington*, 542 U.S. 296 (2004), a judge could make the necessary determinations and a jury would not be required to consider the matter during a bifurcated proceeding. However, the parties, whose resources are already limited, will be required to gather and present evidence regarding whether the juvenile adjudication resulted in "imprisonment" and, if so, whether the offender was provided counsel or, in the alternative, knowingly

and voluntarily waived counsel. See *Nichols v. United States*, 511 U.S. 738 (1994).

TCA Secs. 40-35-0106; 40-35-0107; 40-35-0108; 40-35-0207

**Senate Status:** Senate passed 04/15/2010.

**House Status:** House passed 04/01/2010.

**Other Status:** Enacted as Public Chapter 0861 (effective 07/01/2010).

**SB 3346**

Kyle

[HB 3281](#)

Coleman

[Public Chapter](#)

[\(PDF\)](#)

**Court can order monitoring devices, in-patient treatment.** Allows a court, when setting bail for a defendant arrested for certain alcohol related offenses and such defendant has prior convictions for certain alcohol related offenses or is currently already released on bail for certain alcohol related offenses, to order monitoring devices or in-patient treatment as a condition of release and requires the court to determine whether the defendant is a danger to the community prior to release.

**Amendment:** House amendment 1 adds "other alternative alcohol monitoring devices" to the list of monitoring devices the court may consider requiring a DUI defendant to use.

**Judicial Council comment:** The Judicial Council observed that Tenn. Code Ann. 40-11-118(b) (7) currently requires a determination as to whether someone is a danger to the community on the issue of bail. Members of the Council observed that while these types of conditions on bail would be a helpful tool, the reality and practicality of funding these conditions, either by an individual or by a local government, are problematic. The Judicial Council also noted that these types of conditions of bail are different policy considerations than are contemplated by the current function of bail, which is to ensure a defendant's return for court.

TCA Secs. 40-11-0118; 40-11-0148

**Senate Status:** Senate passed 04/15/2010.

**House Status:** House 04/01/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0867 (effective 01/01/2011).

**SB 3362**

Black

[HB 3369](#)

Maggart

[Public Chapter](#)

[\(PDF\)](#)

**Cannot practice medicine while on sex offender registry.** Requires the registering agency to forward to the board a certified copy of the offender's TBI registration form within 30 days after a sexual offender or violent sexual offender who is a physician practicing in TN registers as a sex offender. Requires the board to revoke the offender's license to practice medicine.

**Amendment:** House amendment 3 rewrites the bill. Prohibits a person convicted of a violent sexual offense from maintaining a license to practice medicine. Requires a hearing to be conducted by the board to determine the continuing risk to patients if a person is licensed to practice medicine and is required to register as a sexual offender. Allows the board to revoke the license, prohibit the physician from engaging in direct patient care, or other conditions and limitations. Gives the physician the ability to appeal the decision. Requires the board to compare a list of all persons licensed to practice medicine against the list of persons registered as sexual offenders or violent sexual offenders by September 1, 2010.

TCA Secs. 63-06-0214; 63-06-0200; 63-06-0238

**Senate Status:** Senate 04/12/2010 concurred in House amendment 3 and non-concurred

in House amendment 4.

**House Status:** House 04/19/2010 passed with previously adopted amendment 3.

**Other Status:** Enacted as Public Chapter 0904 (effective 07/01/2010).

**SB 3380**

Marrero

[HB 3577](#)

Jones S.

**Definitions concerning domestic abuse and victims.** Corrects cross-reference error in definitions of domestic abuse and victims.

**Amendment:** House amendment 1 corrects a cross reference in the existing code.

TCA Secs. 36-03-0606; 39-13-0101; 39-13-0102; 40-11-0150; 40-35-0303

[Public Chapter](#)

[\(PDF\)](#)

**Senate Status:** Senate passed 05/13/2010.

**House Status:** House 04/19/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0981 (effective 05/27/2010).

**SB 3431**

Henry

[HB 2813](#)

Odom

**Incarceration of certain non-violent property offenders.** Diverts certain non-violent property offenders such as burglary, shoplifting or vandalism from sentence of incarceration to sentence to community correction, probation or diversion program and increases percentage of sentence person convicted of aggravated robbery with weapon must serve from 30 percent to 85 percent.

**Amendment:** HOUSE AMENDMENT 1 prohibits judges from imposing sentencing alternatives of continuous confinement in a local jail or the DOC when sentencing a defendant convicted of a non-violent property offense. Authorizes a judge to sentence the defendant to community corrections, probation, pre-trial diversion, or judicial diversion. Authorizes a judge to sentence the defendant to continuous confinement under certain circumstances. Requires an offender convicted of the Class B felony offense of aggravated robbery to serve 89 percent of the sentence imposed by the court less sentence reduction credits earned and retained. Requires sentence reduction credits to reduce the defendant's sentence by no more than 15 percent. HOUSE AMENDMENT 2 states the offenses of criminal simulation, shoplifting and passing forged checks applies when the amount taken is less than \$1,000. Senate amendment 6 deletes all language after the enacting clause. Effective July 1, 2010, prohibits a judge from imposing sentencing alternatives of continuous confinement in a local jail or the Department of Correction (DOC) when sentencing a defendant convicted of a non-violent property offense as defined in the bill. Authorizes a judge to sentence the defendant to any of the other sentencing alternatives authorized by Tenn. Code Ann. □ 40-35-104(c) including, but not limited to, periodic confinement, work release, community corrections, probation, pre-trial diversion, or judicial diversion. If the sentencing court determines the defendant has one or more prior convictions at the time the non-violent property offense as defined by the bill is committed or the defendant has violated the terms and conditions of the alternative sentence originally imposed, the defendant may be sentenced to a period of continuous confinement. Defines "prior conviction" to mean that the defendant serves and is released or discharged from, is serving, or on escape status from a separate period of incarceration or supervision for the commission of a felony offense prior to or at the time of committing an offense on or after July 1, 2010, that is listed in the bill. Prior conviction includes convictions under the laws of any other state, government or country, that if committed in this state, would constitute a felony or if the elements of the offense are the same as the elements for a felony offense in this state. Defines "separate period of incarceration or supervision" as a sentence to any of the sentencing alternatives set out in Tenn. Code Ann. □ 40-35-104(c) (3) - (9). Requires an offender convicted of the Class B felony offense of

aggravated robbery to serve 85 percent of the sentence imposed by the court less sentence reduction credits earned and retained. No sentence reduction credits shall reduce the sentence imposed by the court by more than 15 percent.

**Joint Oversight Committee on Corrections:** Various law enforcement agencies across the state have been proponents of enhancing the sentence for aggravated robbery for several years as this crime is normally associated with the more violent criminal and random victims. Diverting property offenders to alternative sentencing will help free bed space in the institutions but the court should, at all times, have the ability to impose a sentence of confinement at the court's discretion. The Board of Probation and Parole and Community Corrections have expanded their resources and added personnel to comply with the Technical Violators Diversion Program of the Joint Offenders Management Plan which is designed to keep non-violent technical parole/probation violators from incarceration. Enactment of this bill would require additional resources for BOPP and Community Corrections depending on the added case load of property offenders.

TCA Secs. 40-35-0000; 40-35-0100; 40-35-0122; 40-35-501

**Senate Status:** Senate 06/03/2010 passed with amendment 6.

**House Status:** House 06/04/2010 concurred in Senate amendment 6.

**Other Status:** Enacted as Public Chapter 1090 (effective 07/01/2010).

[SB 3439](#)

Tracy

**HB 3691**

Coleman

[Public Chapter](#)  
[\(PDF\)](#)

**Arrest of defendants with mental illness.** Requires that any defendant arrested for any offense against a person and who has a severe and persistent mental illness be held in custody for at least 12 hours from the time of such defendant's arrest if the defendant is a threat to the alleged victim.

**Amendment:** Senate amendment 1 deletes the language of the original bill. Adds provision stating bail for persons with severe and persistent mental illness may be paid by a responsible substitute instead of the mentally ill person. Requires law enforcement officers who believe a defendant arrested for an offense against a person poses a substantial likelihood of serious harm to request an examination of the defendant by a member of a community mental health crisis response service to determine if the defendant is subject to admission to a hospital or treatment resource. Requires the examination to be completed within 12 hours or the defendant shall be allowed to admit bail. Senate amendment 2 deletes the language of the original bill. Adds provision stating bail for persons with severe and persistent mental illness may be paid by a responsible substitute instead of the mentally ill person. Requires law enforcement officers who believe a defendant arrested for an offense against a person poses a substantial likelihood of serious harm to request an examination of the defendant by a member of a community mental health crisis response service to determine if the defendant is subject to admission to a hospital or treatment resource. Requires the examination to be completed within 12 hours or the defendant shall be allowed to admit bail.

TCA Secs. 40-11-0111; 40-11-0150

**Senate Status:** Senate 04/29/2010 passed with amendment 2 and previously adopted amendment 1.

**House Status:** House passed 05/12/2010.

**Other Status:** Enacted as Public Chapter 0937 (effective 07/01/2010).

**SB 3459**  
Stewart E.  
**HB 3376**  
Cobb T.

[Public Chapter](#)  
[\(PDF\)](#)

**Harboring a runaway.** Establishes the offense of harboring a runaway and specifies that a violation of such offense is a Class A misdemeanor.  
**Amendment:** Senate amendment 1 rewrites the bill. Creates a Class A misdemeanor offense of harboring a runaway for any person, with the knowledge that the child is a runaway, harbors or hides the child and does the following: fails to notify the child's legal custodian, legal guardian or law enforcement authorities of the whereabouts of the child within a reasonable amount of time; conceals the whereabouts of the child; or aids the child in escaping from the custody of the child's parents or law enforcement authorities. Senate amendment 2 changes the term "child's parents" in the bill to "child's legal custodian, legal guardian."

**Conference Committee:** Conference Committee report on HB 3376/SB 3459 recommends that Senate amendments 1 and 2 be deleted. The Committee recommends that the following be adopted: any person who knowingly hides a runaway child has committed a Class A misdemeanor, if the person fails to notify the child's legal guardian or law enforcement within a reasonable amount of time, conceals the child, or helps the child escape from the child's guardian or law enforcement.

TCA Secs. 39-15-0400; 39-15-0414

**Senate Status:** Senate 06/09/2010 adopted conference committee report.

**House Status:** House 06/09/2010 adopted conference committee report.

**Other Status:** Enacted as Public Chapter 1099 (effective 06/23/2010).

## EDUCATION

**SB 3583**  
Ketrone  
**HB 3161**  
Curtiss

[Public Chapter](#)  
[\(PDF\)](#)

**Offenses by student receiving special education.** Allows, instead of requires, a School Resource Officer (SRO) to take a special education student into custody after the SRO witnesses an offense, regardless of the SRO's compensation.

**Amendment:** House amendment 1 clarifies that "school resource officer" would have the same definition as "school resource officer" under the School Security Act (TCA 49-6-4202(6)).

TCA Sec. 49-10-1304

**Senate Status:** Senate 04/15/2010 concurred in House amendment 1.

**House Status:** House 04/07/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0856 (effective 04/30/2010).

## ENVIRONMENT & NATURE

**SB 1312**  
Tracy  
**HB 1619**  
McCord

[Public Chapter](#)  
[\(PDF\)](#)

**Operation of a concentrated animal feeding operation - CAFO.** Clarifies the meaning of a CAFO as it is defined under federal law, with reference to discharge of wastewater. States that the operation of a CAFO is prohibited without a proper permit.  
**Amendment:** Senate amendment 1 rewrites the bill. Eliminates the requirement that all concentrated animal feeding operations obtain coverage under a permit and instead would only require those operations required by the federal Clean Water Act to be issued a permit.

TCA Sec. 69-03-0108

**Senate Status:** Senate 05/14/2009 passed with amendment 1.

**House Status:** House passed 05/18/2009.

**Other Status:** Enacted as Public Chapter 0330 (effective 06/01/2009).

## FAMILY LAW

**SB 3267**

Harper

[HB 3412](#)

Brown

[Public Chapter](#)

[\(PDF\)](#)

**Tennessee Child Abuser Registration Act of 2010.** Enacts the "Tennessee Child Abuser Registration Act of 2010" which creates within the TBI a registry of persons who have been convicted on or after January 1, 2011, of child abuse or child sexual abuse. Requires the registry to be made available for public inquiry via the Internet. **Amendment:** Senate amendment 1 rewrites the bill. Requires mandatory reporters' reports to include the child's telephone number if the child possesses one. Corrects technical errors. Requires the department of children's services (DCS) to report any information concerning alleged human trafficking or child pornography to the appropriate law enforcement agency when the information does not result in an investigation. Requires DCS to report any information concerning severe child abuse to the appropriate law enforcement agency upon assignment of such case to a DCS worker. Requires DCS and law enforcement to maintain a log of all related information. Requires any school employee or member of the board of education to immediately notify DCS or the appropriate law enforcement agency upon becoming aware of a report or investigation that in any way involves alleged child abuse.

TCA Sec. 37-01-0403

**Senate Status:** Senate 05/10/2010 passed with amendment 1.

**House Status:** House passed 05/13/2010.

**Other Status:** Enacted as Public Chapter 0979 (effective 05/27/2010).

## GOVERNMENT ORGANIZATION

**SB 2468**

Watson B.

[HB 2457](#)

Lynn

[Public Chapter](#)

[\(PDF\)](#)

**Sunset - TBI.** Extends Tennessee bureau of investigation to June 30, 2014.

TCA Secs. 04-29-0230; 04-29-0235

**Senate Status:** Senate passed 03/22/2010.

**House Status:** House passed 03/15/2010.

**Other Status:** Enacted as Public Chapter 0699 (effective 03/31/2010).

**SB 3551**

Ketron

[HB 3634](#)

Todd

[Public Chapter](#)

[\(PDF\)](#)

**Membership of advisory committee on open government.** Adds two members to the advisory committee on open government for a term of four years including a member from the Tennessee Association of Chiefs of Police and a member from the Tennessee Sheriffs' Association.

**Amendment:** Senate amendment 1 rewrites bill to add four new members to the advisory committee on open government. Specifies that new members include one member from AARP, one member from the Society of Professional Journalists, one member from the TN Association of Chiefs of Police and one member from the TN Sheriffs' Association.

TCA Sec. 08-04-0602

**Senate Status:** Senate 06/04/2010 passed with amendment 1.

**House Status:** House passed 06/04/2010.

**Other Status:** Enacted as Public Chapter 1148 (effective 06/30/2010).

## GOVERNMENT REGULATION

[SB 3277](#)

Burchett

[HB 3641](#)

Todd

[Public Chapter](#)

[\(PDF\)](#)

**Permits for public fireworks displays.** Removes the requirement that the county or municipality law enforcement agency must sign public firework permits.  
**Amendment:** Senate amendment 1 rewrites the bill. Specifies that all required application-for-permit documents shall be returned to the permittee within three business days from receipt of the application for a permit, unless otherwise agreed by the permittee and applicable officials. Specifies that such filings may be submitted electronically as allowed for in TCA 47-10-118. House amendment 1 removes the provisions of Senate amendment 1 thus restoring the language of the original bill. Adds a requirement that a permittee must send a written notification to the chief supervisory law enforcement official for the county or municipality where the fireworks display will be held, which states the date, time and location of the public display. The signature of the chief law enforcement official will not be required in order for an applicant to obtain a permit.

TCA Sec. 68-104-0211

**Senate Status:** Senate 04/15/2010 concurred in House amendment 1.

**House Status:** House 04/08/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0853 (effective 04/30/2010).

## HEALTH CARE

[SB 2561](#)

Henry

[HB 2581](#)

Odom

[Public Chapter](#)

[\(PDF\)](#)

**Health care reporting: person seeking controlled substances.** Requires health care providers with actual knowledge to report persons who have intentionally obtained or attempted to obtain controlled substances illegally within five days, rather than three days, to law enforcement. Specifies that health care providers treating patients with mental illnesses are not required, but allowed, to report the same activities. Specifies that such requirement does not apply to TennCare recipients. Allows health care providers to avoid civil liability unless they have willfully failed to make reports required by state law.

**Amendment:** House amendment 1 requires the controlled substance database advisory committee to develop a form by August 1, 2010, that healthcare providers may choose to use to make required report. Requires the department of health to make such form available on its website. States that a healthcare provider who fails to make the required report shall not be guilty of a felony and shall be punishable only by sanctions set forth for a Class D felony involving controlled substances. House amendment 2 clarifies that advanced practice nurses with a certificate of fitness are included in the legislation. House amendment 3 allows providers to also notify a judicial district or multi-judicial district drug task force.

TCA Secs. 53-11-0309; 53-11-0401

**Senate Status:** Senate passed 03/15/2010.

**House Status:** House 03/04/2010 passed with amendments 1, 2 & 3.

**Other Status:** Enacted as Public Chapter 0663 (effective 03/30/2010).

[SB 3092](#)  
Burchett  
[HB 3251](#)  
Armstrong

[Public Chapter](#)  
[\(PDF\)](#)

**Board of medical examiners: agree to enforce certain laws.** Requires the board of medical examiners to enter into a written agreement with the federal department of homeland security and to agree to enforce certain applicable federal immigration laws.  
**Amendment:** Senate amendment 1 requires the Board of Medical Examiners enter into a written agreement with the United States Office of Homeland Security to enforce federal immigration laws relating to the licensure of foreign physicians, which may include use of the federal systematic alien verification of entitlements (SAVE) program.

TCA Sec. 63-06-0211

**Senate Status:** Senate 06/03/2010 passed with amendment 1.

**House Status:** House passed 06/08/2010.

**Other Status:** Enacted as Public Chapter 1122 (effective 06/29/2010).

## INSURANCE AUTOMOBILES

[SB 2570](#)  
Faulk  
[HB 3265](#)  
Johnson P.

[Public Chapter](#)  
[\(PDF\)](#)

**Accident prevention courses for drivers over 55.** Allows accident prevention courses that qualify for premium rate reductions for drivers over 55 years of age to be offered online, subject to the approval of the commissioner of commerce and insurance.  
**Amendment:** Senate amendment 1 clarifies that the department of safety is authorized to promulgate the rules and regulations that establish the criteria for the certification of an online motor vehicle. Changes "Section 4" to "Section 3" and "Section 3" to "Section 2" and specifies "by deleting sections 2 and 3".

TCA Sec. 56-07-1107

**Senate Status:** Senate 02/17/2010 passed with amendment 1.

**House Status:** House passed 02/22/2010.

**Other Status:** Enacted as Public Chapter 0617 (effective 03/02/2010).

## JUDICIARY

[SB 2867](#)  
Marrero  
[HB 3022](#)  
Jones S.

[Public Chapter](#)  
[\(PDF\)](#)

**Adding mental issues to Drug Court Treatment Act of 2003.** Requires the commissioner of mental health and developmental disabilities to report to certain legislative committees concerning adding mental health issues to the Drug Court Treatment Act of 2003.

**Amendment:** House amendment 1 rewrites the bill. Defines related services within the statute to include mental services. Makes technical changes.

TCA Secs. 16-22-0104; 16-22-0106

**Senate Status:** Senate passed 04/12/2010.

**House Status:** House 04/01/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0833 (effective 04/27/2010).

[SB 2966](#)  
Beavers  
[HB 2690](#)  
Coleman

[Public Chapter](#)

**Indigent criminal defendant: collected proceeds go to court.** Requires the court clerk to pay any money collected from an indigent criminal defendant to the Administrative Office of Courts, instead of paying directly to the attorney of record.

**Amendment:** House amendment 1 requires that if a defendant is ordered to pay some or all of his or her representation and the Administrative Office of the Courts receives funds paid pursuant to existing law that are greater than the total amount the appointed

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counsel has been reimbursed, then any excess funds must be paid to the appointed attorney.

**Judicial Council Comment:** The Judicial Council noted that the procedure outlined in the legislation is a better accounting practice with regard to the payment of appointed private counsel for indigent defendants. The Council further clarified that the legislation does not affect monies that are similarly submitted to the District Public Defenders Conference where the Public Defender, rather than private counsel, is appointed to represent an indigent defendant.

TCA Sec. 40-14-0202

**Senate Status:** Senate passed 03/29/2010.

**House Status:** House 03/08/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0754 (effective 04/13/2010).

[SB 3627](#)

McNally

**HB 3964**

Ferguson

**Ninth judicial district drug task force - testing fees.** Adds qualifier stating that, regardless of any law to the contrary, that any drug testing fee or other fee that was assessed and collected in the ninth judicial district before such fees were repealed in 2007 will be designated for use by the ninth judicial district drug task force.

[Public Chapter](#)

[\(PDF\)](#)

TCA Sec. 39-17-0420

**Senate Status:** Senate passed 04/12/2010.

**House Status:** House passed 05/10/2010.

**Other Status:** Enacted as Public Chapter 0941 (effective 05/26/2010).

## LOCAL GOVERNMENT

[SB 2703](#)

Burchett

**HB 2952**

Brooks, Harry

**Prohibition of law enforcement quotas.** Prohibits law enforcement officers from being reprimanded or rewarded based on the officer's number of traffic citations issued. Penalizes violators of this section with potential removal from office.

**Amendment:** Senate amendment 1 allows state agencies to promote employees based partly, not solely, on law enforcement quotas. Senate amendment 2 strikes section C, which removes the violation establishing misconduct for elected officials.

[Public Chapter](#)

[\(PDF\)](#)

TCA Secs. 39-16-0000; 39-16-0500; 39-16-0516

**Senate Status:** Senate 05/10/2010 passed with amendments 1 and 2.

**House Status:** House 05/24/2010 concurred in Senate amendments 1 and 2.

**Other Status:** Enacted as Public Chapter 1000 (effective 07/01/2010).

## PROPERTY & HOUSING

[SB 3909](#)

Kyle

**HB 3784**

Coleman

**Property seizures and forfeitures.** Authorizes internal affairs director and agents of the department to seize, control, and beneficially use all property subject to forfeiture.

**Joint Oversight Committee on Corrections:** Enactment of this bill would have a positive impact on the Department of Correction and their Internal Affairs Division and allow them to more effectively perform their mission by having extra financial resources to buy equipment, carry out sting operations and otherwise carry out their duties both inside and outside the institutions.

[Public Chapter](#)

[\(PDF\)](#)

TCA Secs. 39-17-0420; 40-33-0102; 40-33-0104; 40-33-0105; 40-33-0110; 53-11-0451; 53-11-0452; 55-05-0108

**Senate Status:** Senate passed 05/27/2010.

**House Status:** House passed 04/01/2010.

**Other Status:** Enacted as Public Chapter 1040 (effective 06/11/2010).

## **PUBLIC EMPLOYEES**

### **SB 1299**

Crowe

#### [HB 1184](#)

Ford D.

[Public Chapter](#)  
[\(PDF\)](#)

**Training requirements for constables.** Requires constables to complete 40 hours of in-service training each year of their term, in addition to the 40 hours of in-service training required during their first year in office. Also requires constable to file certification of completion of such in-service training with county clerk.

**Amendment:** House amendment 2 deletes the language of the original bill. Exempts Washington County from previous requirements, which abolishes the office of constable in counties with a population between 150,000 and 400,000. House amendment 3 is same as House amendment 2 but with regards to Sumner County. Senate amendment 3 corrects a drafting error in House amendment number 2 which left out the word "amended."

**Conference Committee:** Conference Committee report on HB 1184/SB 1299 recommends that House amendment 2, House amendment 3, and Senate amendment 3 be deleted. Exempts Washington County and Sumner County from the law that abolishes the office of constables in Class 2 counties if and when such counties increases to a size which would constitutes a county of the second class.

TCA Sec. 08-10-0101

**Senate Status:** Senate 06/09/2010 adopted the conference committee report.

**House Status:** House 06/08/2010 adopted the conference committee report.

**Other Status:** Enacted as Public Chapter 1047 (effective 06/21/2010).

### [SB 2911](#)

Tracy

#### **HB 3025**

Harmon

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**Officer's twenty-five years of service.** Requires any service as a law enforcement officer in the state to be credited for determination of an officer's 25 years of service.

**Amendment:** House amendment 1 rewrites the bill. Requires for-hire motor carriers providing transportation service with eight or more people or transporting TennCare passengers eligible for such services to maintain liability insurance of not less than \$1,000,000, conduct mandatory random drug testing for the operators, submit operators to a physical examination every two years, and participate in a compliance review.

TCA Sec. 65-15-0128

**Senate Status:** Senate passed 05/24/2010.

**House Status:** House 05/05/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 1013 (effective 07/01/2010).

### [SB 3435](#)

Tracy

#### **HB 3911**

Rich

**Retired highway patrol to keep badge and weapon.** Allows any commissioned member of the highway who retires after 20 years of honorable service, rather than 25, to be issued a retired commission card to maintain their weapon and badge as long as the badge is permanently marked to display the person is retired.

[Public Chapter](#)  
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TCA Sec. 04-07-0110

**Senate Status:** Senate passed 02/17/2010.

**House Status:** House passed 03/29/2010.

**Other Status:** Enacted as Public Chapter 0753 (effective 07/01/2010).

## PUBLIC FINANCE

**SB 2859**

Faulk

[HB 2863](#)

Swafford

**Fiscal impact of public chapter compared to fiscal note.** Requires fiscal review committee staff to compare actual fiscal impact of at least five public chapters to the fiscal impact as stated in the fiscal note and present such review to fiscal review committee each year.

**Amendment:** House amendment 1 requires a written summary of the results of such review to be provided to each member of the general assembly each year.

[Public Chapter](#)  
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TCA Sec. 03-02-0107

**Senate Status:** Senate 04/15/2010 concurred in House amendment 1.

**House Status:** House 04/07/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0824 (effective 07/01/2010).

## TAXES GENERAL

**SB 3134**

McNally

[HB 3164](#)

Curtiss

**Unauthorized substances tax: dealer, not the possessor.** Revises the tax on unauthorized substances based on the Tennessee Supreme Court's decision in *Waters v. Farr* to impose the tax on the dealer, not the possessor, of unauthorized substances.

**Amendment:** House amendment 1 rewrites the bill. Requires merchants of illegal drugs and illicit alcohol to pay taxes on these items, depending on the weight and size of the item set forth in the bill. Establishes various requirements concerning this taxing system, including defining appropriate terms, setting penalties for not paying the tax, creating the tax collection process, and designating where the tax proceeds go. (10 pp.)

[Public Chapter](#)  
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TCA Secs. 67-04-0000; 67-04-2800; 67-04-2801; 67-04-2802; 67-04-2803; 67-04-2804; 67-04-2805; 67-04-2806; 67-04-2808; 67-04-2809; 67-04-2810; 67-04-2811

**Senate Status:** Senate passed 05/10/2010.

**House Status:** House 05/05/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0962 (effective 07/01/2010).

## TRANSPORTATION GENERAL

**SB 2713**

Gresham

[HB 2705](#)

Rich

**Chief Kenny Feathers Bridge on US 64 in Fayette County.** Names the bridge spanning Bennett's Creek on US Highway 64 in Fayette County in honor of Chief Kenny Feathers, former Chief of the Somerville Police Department.

**Amendment:** House amendment 1 requires Fayette County to pay for signage.

[Public Chapter](#)  
[\(PDF\)](#)

**Senate Status:** Senate passed 04/08/2010.

**House Status:** House 03/29/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 0812 (effective 04/20/2010).

**[SB 3057](#)**

Woodson

**[HB 3131](#)**

Brooks, Harry

**Bicycles approaching an intersection.** Requires the rider of a bicycle, when approaching an intersection controlled by a traffic-control signal that fails to work because of the bicycle's small size, to come to a complete stop at the intersection and then proceed when it is safe to do so.

[Public Chapter](#)  
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TCA Sec. 55-08-0110

**Senate Status:** Senate passed 02/17/2010.

**House Status:** House passed 03/01/2010.

**Other Status:** Enacted as Public Chapter 0640 (effective 07/01/2010).

## TRANSPORTATION VEHICLES

**[SB 2860](#)**

Faulk

**[HB 2769](#)**

Rich

**Evidence obtained by use of radar device to prove speeding.** Provides that evidence obtained by use of radar device cannot be used in evidence in any judicial or administrative proceeding to prove speed of vehicle unless the operator was certified to properly use the device by a recognized organization in the field.

**Amendment:** House amendment 1 specifies that officers operating such devices must go through a program offered by the National Highway Traffic Safety Administration or the Tennessee Peace Officer Standards and Training Commission. House amendment 3 stipulates that the results of a breathalyzer or similar device used to measure alcohol content in a person's blood shall not be admissible unless the law enforcement officer operating the device has been trained by a recognized organization.

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TCA Secs. 24-07-0100; 24-07-0124

**Senate Status:** Senate passed 03/17/2010.

**House Status:** House 03/11/2010 passed with amendments 1 & 3.

**Other Status:** Enacted as Public Chapter 0703 (effective 07/01/2010).

**[SB 2900](#)**

McNally

**[HB 3543](#)**

Maddox

**Blood alcohol or drug concentration test fee.** Increases to \$250 from \$100 the fee required upon conviction for blood alcohol or drug concentration test. Adds conviction of simple possession or casual exchange of controlled substance or conviction of reckless driving to offenses for which such fine is required.

**Amendment:** House amendment 1 deletes the original language of the bill. Increases the fee to conduct a blood alcohol drug test (BADT) from \$100 to \$250. Adds reckless driving and simple possession or casual exchange of a controlled substance to offenses for which a fee to conduct a BADT must be collected.

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TCA Sec. 55-10-0419

**Senate Status:** Senate passed 05/24/2010.

**House Status:** House 05/20/2010 passed with amendment 1.

**Other Status:** Enacted as Public Chapter 1020 (effective 07/01/2010).

**[SB 2965](#)**

Beavers

**[HB 2768](#)**

Shipley

**DUI offenders and interlock devices.** Requires certain DUI offenders to operate only a motor vehicle that is equipped with a functioning ignition interlock device.

**Amendment:** Senate amendment 2 rewrites the bill. Requires a person with a blood alcohol content of .15 percent or higher, accompanied by a minor, or involved in a traffic accident to only operate a motor vehicle with an ignition interlock device.

Mandates that drivers convicted of DUI that also violated the implied consent law to

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install an IID if a violation has occurred for implied consent in the past five years, underage driving while impaired, violation of the open container law, or reckless driving due reduced from a DUI charge. Authorizes the court to issue a restricted license for those eligible with an installation of an IID. Sets limits for the amount an IID provider can charge. (22 pp).

TCA Secs. 40-33-0211; 55-10-0400; 55-10-0403; 55-10-0406; 55-10-0412; 55-10-0420; 55-10-0421; 55-10-0422; 55-10-0423; 55-50-0504

**Senate Status:** Senate 04/19/2010 passed with amendment 2.

**House Status:** House passed 05/10/2010.

**Other Status:** Enacted as Public Chapter 0921 (effective 05/26/2010).

**[SB 2970](#)**

Black

**HB 3280**

Coleman

[Public Chapter](#)

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**Substances in DUI/DWI offenses.** Expands the types of substances that could result in a DUI/DWI to include any substance affecting the central nervous system.

**Amendment:** Senate amendment 1 rewrites the bill to revise the substances that give rise to a DUI, so that it would be unlawful to operate or be in control of a motor driven vehicle while under the influence of any intoxicant, marijuana, "controlled substance, drug, substance affecting the central nervous system or combination thereof that impairs to any extent the driver's ability to operate a motor vehicle by depriving the driver of the clearness of mind and control of himself which he would otherwise possess". The bill would take effect on January 1, 2011. Senate amendment 2 specifies that the substance must impair the driver's ability to "safely" operate a motor vehicle and removes the reference to the driver be impaired "to any extent".

TCA Sec. 55-10-0401

**Senate Status:** Senate 05/24/2010 passed with amendments 1 and 2.

**House Status:** House 05/27/2010 concurred in Senate amendments 1 and 2.

**Other Status:** Enacted as Public Chapter 1015 (effective 01/01/2011).

**[SB 3044](#)**

Tracy

**HB 3267**

Harmon

**Regulation of traffic offenses by municipalities.** Allows municipalities to adopt any provisions of the law included in the rules of the road for local enforcement, changing law's reference to 55-8-101 and 55-8-180 to any provision of chapter 8 in title 55.

TCA Secs. 55-10-0307; 55-10-0308

**Senate Status:** Senate passed 05/06/2010.

**House Status:** House passed 03/22/2010.

**Other Status:** Enacted as Public Chapter 0966 (effective 05/26/2010).

**[SB 3121](#)**

Faulk

**HB 3282**

Coleman

[Public Chapter](#)

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**DUI - violations of implied consent law.** Requires general sessions to hear cases regarding implied consent laws in DUI arrests rather than having the cases heard at the same time and in the same court as the DUI charge.

**Amendment:** Senate amendment 3 authorizes the court disposing of a violation to order the Department of Safety to reinstate a person's suspended driver license if the implied consent violation and the offense for which the driver was arrested resulted from the same incident and the offense is dismissed upon a finding that the law enforcement officer lacked sufficient cause to make the initial stop of the driver's vehicle. Senate amendment 4 clarifies that if a person is found to have violated the implied consent law

in such a manner and is convicted of a DUI for the same offense, that the individual's license will only be suspended for a period imposed by the court for the DUI. House amendment 1 deletes the language "made at the same time and by the same court as the court disposing of the offense for which the driver was placed under arrest" and substitutes instead the language "made at the driver's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, unless the refusal is a misdemeanor offense in which case the determination shall be made by the court which determines whether the driver committed the offense; however, upon the motion of the state, the determination may be made at the same time and by the same as the court disposing of the offense for which the driver was placed under arrest". Requires the period of license suspension for a violation of this section to run consecutive to the period of license suspension imposed following a conviction.

**Judicial Council Comment:** Requiring the resolution of an alleged implied consent violation at an earlier stage in the proceedings is a policy matter within the discretion of the legislature. The Council questioned whether the testimony of the offender at the general sessions court level regarding the implied consent issue would be admissible against the defendant during any subsequent criminal proceedings regarding the charged offense of driving under the influence. Moreover, due to the manner in which some prosecutors currently are indicting offenders for violating the implied consent provisions, the Council stated that the sponsor may wish to amend this bill to provide that all implied consent violations are civil in nature.

TCA Sec. 55-10-0406

**Senate Status:** Senate 06/04/2010 passed with amendments 3 and 4.

**House Status:** House 06/08/2010 concurred in Senate amendments 3 and 4.

**Other Status:** Enacted as Public Chapter 1096 (effective 01/01/2011).

**SB 3457**  
Yager  
[HB 3489](#)  
Ferguson

**Lighting on highway maintenance vehicle.** Permits highway maintenance or utility vehicles to operate a white, amber, or white and amber light system on any location on the vehicle.

TCA Sec. 55-09-0402

[Public Chapter](#)  
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**Senate Status:** Senate passed 05/06/2010.

**House Status:** House passed 05/10/2010.

**Other Status:** Enacted as Public Chapter 0938 (effective 05/26/2010).

**SB 3907**  
Kyle  
**HB 3791**  
Pitts

**Traffic citations information & commercial vehicles.** Specifies and adds types of information that must be included in all traffic citations and court records abstracts. Adds additional civil penalties for commercial truck operators who violate out-of-service orders. Extends certain penalties concerning commercial vehicles to non-commercially licensed persons. Requires commercial drivers to possess a medical card or proof of exemption from the medical card requirement. (Part of Administration Package)

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TCA Secs. 55-10-0207; 55-10-0306; 55-50-0331; 55-50-0335; 55-50-0400; 55-50-0405; 55-50-0409; 55-50-0501

**Senate Status:** Senate passed 04/05/2010.

**House Status:** House passed 06/03/2010.

**Other Status:** Enacted as Public Chapter 1037 (effective 06/11/2010).

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