PUBLIC CHAPTER NO. 904

SENATE BILL NO. 3362

By Black, Ketron, Marrero, Tracy, Burks, Ford

Substituted for: House Bill No. 3369

By Maggart, Moore, Todd, Faulkner, Lynn, White, Weaver, Haynes, Harrison, McDaniel, Fincher, Kevin Brooks, Montgomery, Marsh, Casada, Hensley, Rich, Hardaway, Bass, Ty Cobb, Pitts, Coleman, Hackworth, Sontany, McDonald, Fraley, Ulysses Jones

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, Part 2; Title 63, Chapter 6, Part 2 and Title 63, Chapter 9, relative to the licensure of certain medical practitioners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-214, is amended by deleting subdivision (b)(10) and substituting instead the following:

(10) Conviction of a felony, conviction of any offense under state or federal laws relative to drugs or the practice of medicine, conviction of any offense involving moral turpitude or conviction of any offense for which the person is required to register as a sexual offender or violent sexual offender pursuant to Title 40, Chapter 39, Part 2;

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following new section:

Section 63-6-238.

(a)(1) The general assembly finds that a person who is licensed to practice medicine in this state and who is required to register with the Tennessee Bureau of Investigation as a sexual offender or violent sexual offender is injurious to the public safety, health and welfare as well as the public's perception of and confidence in the medical profession.

(2) The general assembly further finds that the strongest remedial action possible should be taken against a person's license to practice medicine when such person has been convicted of a sexual offense, or violent sexual offense as both are defined in Title 40, Chapter 39, Part 2, and continues to engage in the practice of medicine in this state after such conviction.

(3) Enactment of this section by the general assembly is declared to be a remedial action necessary to assure the safety of the citizens of this state and their faith and confidence in the medical profession. This section is not to be construed to be punitive against any person to whom this section may apply.

(b) As used in this section:

(1) "Registry" means the registry created by the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, codified in Title 40, Chapter 39, Part 2.

(2) "Registering agency" means a sheriff's office, municipal police department, metropolitan police department, campus law enforcement agency, the Tennessee Department of Correction, a private contractor with the Tennessee Department of Correction or the board with whom sexual offenders and violent sexual offenders are required to register under Title 40, Chapter 39, Part 2;

(3) "Sexual offense" means those offenses defined as "sexual offenses" in § 40-39-202;

(4) "Violent sexual offense" means those offenses defined as "violent sexual offenses" in § 40-39-202;

(c)(1) If the registering agency of a person who registers as a sexual offender or violent sexual offender, as defined by Title 40, Chapter 39, Part 2, has reason to believe that such person is licensed to practice medicine in this state pursuant to this chapter, the registering agency shall prepare and forward to the board of medical examiners a certified copy of the offender's TBI registration form within thirty (30) days of the sexual offender's or violent sexual offender's registration.

(2) Upon receipt of the form, or upon receipt of credible evidence from any other source indicating that a person licensed to practice medicine in this state has been convicted of a sexual offense or a violent sexual offense, the board shall investigate to determine whether such person is a sexual offender or violent sexual offender, as defined by § 40-39-202, and a person licensed to practice medicine pursuant to this chapter.

(A) If the board determines that the person named on the TBI registration form, or by another source, is a person licensed to practice medicine in this state pursuant to this chapter and the offense for which the person is required to register a violent sexual offense, such conviction constitutes a material change in the person's licensure qualifications, and the board shall conduct a

hearing at which the person may present evidence that the information received by the board is incorrect. If, after the hearing, the board finds the person was convicted of a violent sexual offense and is required to register with the TBI as a violent sexual offender, the board shall revoke the person's license to practice medicine in accordance with § 63-6-216. The person may appeal the ruling of the board as provided in the Uniform Administrative Procedures Act, but such appeal shall be limited to the issue of whether or not such person has been convicted of a violent sexual offense and is therefore required to register as a violent sexual offender. The license revocation shall remain in effect during the pendency of any appeal.

(B) If the person licensed to practice medicine is required to register as a sexual offender, the board shall conduct a hearing to determine the extent to which the person poses a continuing risk to patients; the degree to which the person has been rehabilitated; what treatment, if any, the person has undergone; the areas of medicine in which the person is qualified to engage without endangering the safety of patients; and any other factor the board deems relevant in determining the outcome most likely to protect the public while considering the interests of the person. At the conclusion of the hearing, the board may:

(i) Revoke the license of the person; or

(ii) If the board does not revoke the license, it may place such conditions on the person's license as it deems appropriate and advisable to protect the interests and safety of the public; provided, the board shall place the following restrictions on the person's license:

(*a*) Prohibit the physician from engaging in direct patient care or contact; and

(*b*) Such other conditions and limitations on the person's license as the board deems advisable.

(C)(i) If a person's license to practice medicine was revoked, suspended or conditioned pursuant to subdivision (c)(2)(B) because such person was convicted of a sexual offense and such person applies for and is granted termination of sexual offender registry requirements pursuant to § 40-39-207, such person may petition the board for

reinstatement of the person's license to practice medicine.

(ii) If a petition is filed for reinstatement pursuant to this subsection, the board shall hear the petition within thirty (30) calendar days of its receipt. At the hearing the board shall use the same analysis set out in subdivision (c)(2)(B) to determine whether the person should be permitted to practice medicine in this state under any circumstances.

(iii) If the written findings of the board are that the person is no longer a threat to public safety and could return to the practice of medicine in some capacity, it may:

(*a*) Reinstate the person's license without conditions;

(*b*) Reinstate the person's license with any or all the conditions available under subdivision (c)(2)(B); or

(*c*) Remove some or all of the restrictions or conditions that were placed on a license made conditional pursuant to subdivision (c)(2)(B).

(iv) If the written findings of the board are that the person could not safely return to the practice of medicine, it shall deny the person's petition and set a date certain after which the person may repetition the board.

(D) If the board receives credible evidence from any source indicating that the person is in violation of the restrictions placed upon such person's license to practice medicine pursuant to this section, the board shall conduct a hearing as provided in subdivision (c)(2)(B). If at the conclusion of the hearing, the board finds that the person is in violation of the restrictions placed upon the person's license in a material respect or in a repetitive manner, the board shall revoke the license. If the board finds that the violation is minor or isolated, it may place other conditions on the person's license, such as increased reporting to the board by both the person and the person's employer or contractor, if any.

(E) The provisions of this subdivision (c)(2) shall apply regardless of whether commission of the sexual

offense or violent sexual offense resulting in the person being required to register as a sexual or violent sexual offender occurred prior to or subsequent to the date the person was licensed to practice medicine in this state.

(d) By September 1, 2010, the board shall compare or have compared a list of all persons who are licensed to practice medicine in this state against the list of persons who are registered as sexual offenders or violent sexual offenders pursuant to Title 40, Chapter 39, Part 2. If it appears from this comparison that the same name appears on both lists, the board shall request a certified copy of that person's TBI registration form. Upon receipt of the form from the TBI, the board shall conduct an investigation to determine if the person licensed to practice medicine in this state is the same person who is a registered sexual offender or violent sexual offender. Such investigation shall take no more than thirty (30) days. If the board determines that the person whose name appears on both lists is the same person, it shall immediately take action as provided in subdivision (c)(2) of this section. If the person whose name appears on both lists is not the same person, the board shall take no action.

(e)(1) Upon the effective date of this act, the board shall determine, before granting a license to practice medicine in this state, or renewing an existing license, if the person who is applying for such a license is registered or is required to be registered as a sexual offender or violent sexual offender pursuant to Title 40, Chapter 39, Part 2.

(2) If any applicant for a license to practice medicine in this state is a registered violent sexual offender or is required to register as a violent sexual offender, the board shall deny the application. If any person who is licensed to practice medicine in this state and is seeking to renew such license is a registered violent sexual offender or is required to register as a violent sexual offender, the board shall revoke the physician's license.

(3) If any applicant to the board is registered as a sexual offender or is required to register as a sexual offender, the board shall consider whether the applicant poses a risk to patients; the degree to which the person has been rehabilitated; what treatment, if any, the person has undergone; the areas of medicine in which the applicant is qualified to engage without endangering the safety of patients; and any other factor the board deems relevant in determining what conditions are most likely to protect the public while considering the interests of the applicant. The board may deny the application or may place such conditions upon the applicant as are necessary to protect the public. If the board grants the license, at a minimum the board shall prohibit the applicant from engaging in direct patient care or contact for so long as the applicant is required to register as a sexual offender.

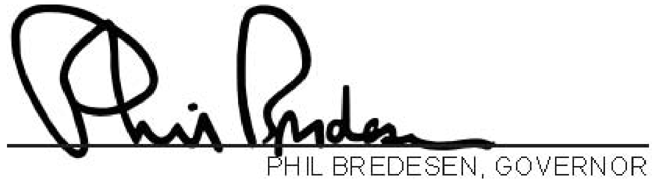
SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it and shall apply to any person licensed to practice medicine in this state, whether such license was issued prior to or after the effective date of this act, and to any person applying to practice medicine in this state, whether the application was filed prior to or after the effective date of this act.

PASSED: April 19, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 921

SENATE BILL NO. 2965

By Beavers, Black, Faulk, Southerland, Norris, Watson, Tracy, Yager, Gresham, Woodson, Crowe, Burks, Herron

Substituted for: House Bill No. 2768

By Shipley, Ty Cobb, Weaver, Hill, Lundberg, Carr, Lynn, Watson, Mumpower, West, Bell,
Lollar, Casada, Halford, Hensley, Dean, Jim Cobb, White, Todd, Rich, Eldridge, Phillip Johnson, Maggart, Towns, Campfield, Fraley, Faulkner, Matheny, McManus, Kevin Brooks, Tidwell, Evans, Shepard, Williams, Montgomery, Haynes, Hawk, Harwell, Sherry Jones, Matlock, Curtis Johnson, Harry Brooks, Dunn, Roach, Sargent, Marsh, Harrison, McDaniel, Coley, Ramsey, Floyd, Dennis, Coleman, Barker, Gilmore, Winningham, McDonald, Yokley, Ford, Harmon, McCormick

AN ACT to amend Tennessee Code Annotated, Title 7; Title 29; Title 37; Title 38; Title 39; Title 40; Title 41; Title 49; Title 55; Title 68 and Title 71, relative to alcohol related traffic offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-33-211(c)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

> (3)(A) If a court of competent jurisdiction orders a person to operate only a motor vehicle that is equipped with a functioning ignition interlock device and the judge makes a specific finding that the person is indigent, all costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4, shall be paid exclusively from the interlock assistance fund established pursuant to § 55-10-421.
>
> (B) Notwithstanding any other provision of Title 55, Chapter 10, no funds from the alcohol and drug addiction treatment fund administered by the Department of Mental Health and Developmental Disabilities shall be used for the lease, purchase, installation, removal or maintenance of such device or for any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4.

SECTION 2. Tennessee Code Annotated, Section 40-33-211(f)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

> (3)(A) If a court of competent jurisdiction orders a person to operate only a motor vehicle that is equipped with a functioning ignition interlock

device and the judge makes a specific finding that the person is indigent, all costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4, shall be paid exclusively from the interlock assistance fund established pursuant to § 55-10-421.

(B) Notwithstanding any other provision of Title 55, Chapter 10, Part 4, no funds from the alcohol and drug addiction treatment fund administered by the Department of Mental Health and Developmental Disabilities shall be used for the lease, purchase, installation, removal or maintenance of such device or for any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4.

SECTION 3. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(iii), is amended by deleting the subdivision in its entirety and substituting instead the following:

(iii) In addition to the other penalties set out for a person convicted of a first offense violation of § 55-10-401, if the person applies for and the court orders the issuance of a restricted motor vehicle operator's license pursuant to subsection (d), the court shall also order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device, if at the time of the offense, the defendant:

(*a*) Has a blood or breath alcohol concentration of fifteen hundredths of one percent (.15%) or higher;

(*b*) Is accompanied by a person under eighteen (18) years of age;

(*c*) Is involved in a traffic accident for which notice to law enforcement is required under § 55-10-107, and the accident is the proximate result of the person's intoxication; or

(*d*) Is in violation of the implied consent law under § 55-10-406, and has a conviction or juvenile delinquency adjudication for a violation that occurred within five (5) years of the instant implied consent violation, for:

(*A*) Implied consent under § 55-10-406;

(*B*) Underage driving while impaired under § 55-10-415;

(*C*) The open container law under § 55-10-416; or

(*D*) Reckless driving under § 55-10-205, if the charged offense was § 55-10-401.

SECTION 4. Tennessee Code Annotated, Section 55-10-403(a)(1)(A), is amended by adding the following new subdivision (viii):

(viii) Subdivisions (a)(1)(A)(i) - (iii) constitute an enhanced sentence, not a new offense.

SECTION 5. Tennessee Code Annotated, Section 55-10-403(c)(1)(A)(iii), is amended by deleting the language "(c)(4)" and substituting instead the language "(c)(2)".

SECTION 6. Tennessee Code Annotated, Section 55-10-403(c), is amended by adding the following new subdivision (4):

(4)(A) If an offender's sentence is enhanced pursuant to subdivision (a)(1)(A)(iii), the court shall order that if the offender applies for and the court orders the issuance of a restricted motor vehicle operator's license pursuant to subsection (d), the court shall also order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device. The restriction set out in this subdivision (c)(4) shall be a condition of such offender's probation.

(B) Sections 55-10-412, 55-10-420 and 55-10-421 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to subdivision (c)(4)(A).

SECTION 7. Tennessee Code Annotated, Section 55-10-403(d)(1)(A)(iv), is amended by deleting the subdivision in its entirety and substituting instead the following:

(iv)(*a*) Except as provided in subdivisions (d)(1)(A)(iv)(*b*) and (*c*), if the person was convicted of a first offense of § 55-10-401, but such person's sentence was not enhanced pursuant to subdivision (a)(1)(A)(iii), the trial judge may order the issuance of a license allowing the person so convicted to operate a motor vehicle for the limited purposes of going to and from:

(*1*) The person's regular place of employment and any work-related driving;

(*2*) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;

(*3*) A court-ordered alcohol safety program;

(*4*) A college or university in the case of a student enrolled full time in the college or university;

(*5*) A scheduled interlock monitoring appointment;

(*6*) A court-ordered outpatient alcohol or drug treatment program;

(*7*) A scheduled litter pickup work shift as required under subsection (s); and

(*8*) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c).

(*b*) If the person was convicted of a first offense of § 55-10-401 and such person was ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device because the person's sentence was enhanced pursuant to subdivision (a)(1)(A)(iii), the trial judge may order the issuance of a license allowing the person so convicted to operate a motor vehicle without the geographic restrictions otherwise required by (d)(1)(A)(iv)(*a*).

(*c*)(*i*) If a person is convicted of a first offense of § 55-10-401, for which the person's sentence is not enhanced pursuant to subdivision (a)(1)(A)(iii), and the person is otherwise eligible for a restricted license pursuant to this subdivision (d)(1)(A), such person may request, at such person's own expense, to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to § 55-10-412(b)(2). If the person so requests, the trial judge may order the issuance of a license allowing the person so convicted to operate a motor vehicle without the geographic restrictions otherwise required by (d)(1)(A)(iv)(*a*).

(*ii*) Sections 55-10-412, 55-10-420 and 55-10-421 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to subdivision (d)(1)(A)(iv)(*c*).

SECTION 8. Tennessee Code Annotated, Section 55-10-403(d)(4)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B)(1) If the court orders the issuance of a restricted motor vehicle operator's license pursuant to this subdivision (d)(4), the court shall also order the person to operate only a motor vehicle that is equipped with a functioning interlock device. The restriction shall be for the entire period of the restricted license and for a period of six (6) months after the license revocation period has expired as required by § 55-10-412(m).

(2) Sections 55-10-412, 55-10-420 and 55-10-421 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to subdivision (c)(4)(A).

SECTION 9. Tennessee Code Annotated, Section 55-10-403, is amended by adding a new subsection thereto:

(t)(1) In addition to all other fines, fees, costs and punishments now prescribed by law, an ignition interlock fee of forty dollars ($40) shall be assessed for each violation of § 55-10-401 occurring on or after July 1, 2010, that results in a conviction for such offense.

(2) All proceeds collected pursuant to subdivision (t)(1) shall be transmitted to the treasurer for deposit in the interlock assistance fund established pursuant to § 55-10-421.

(3) The fee assessed pursuant to subdivision (t)(1) shall be allocated as follows:

(A) Thirty dollars and fifty cents ($30.50) to the interlock assistance fund for the purpose of paying for all the costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4 for persons found to be indigent by the court; and

(B) Four dollars and fifty cents ($4.50) to the Tennessee Hospital Association for the sole purposes of making grants to hospitals that have been designated as critical access hospitals under the Medicare rural flexibility program for the purposes of purchasing medical equipment, enhancing high technology efforts and expanding healthcare services in underserved areas;

(C) One dollar twenty-five cents ($1.25) to the Department of Mental Health and Developmental Disabilities to be placed in the alcohol and drug addiction treatment fund;

(D) One dollar twenty-five cents ($1.25) to the Department of Finance and Administration, office of criminal justice programs, for the sole purpose of funding grant awards to local law enforcement agencies for purposes of obtaining and maintaining equipment and personnel needed in the enforcement of alcohol related traffic offenses;

(E) One dollar twenty-five cents ($1.25) to the Department of Safety to be used to defray the expenses of administering this act; and

(F) One dollar twenty-five cents ($1.25) to the Department of Finance and Administration, office of criminal justice programs, for the sole purpose of funding grant awards to halfway houses whose primary focus is to assist drug and alcohol offenders. In order for a halfway house to qualify for such grant awards it shall provide:

(i) No less than sixty (60) residential beds monthly with occupancy at no less than ninety-seven percent (97%)

per month, or if a halfway house with nonresidential day reporting services, it shall serve no less than two hundred (200) adults monthly;

(ii) Safe and secure treatment facilities, and treatment to include moral recognition therapy, GED course work, anger management therapy, and domestic and family counseling; and

(iii) Transportation to and from work, mental health or medical appointments for each of its residents.

(4)(A) Beginning in fiscal year 2013-2014 any surplus in the interlock assistance fund shall be allocated as follows:

(i) Sixty percent (60%) of such surplus shall be used by the Tennessee Hospital Association for the sole purposes of making grants to hospitals that have been designated as critical access hospitals under the Medicare rural flexibility program for the purposes of purchasing medical equipment, enhancing high technology efforts and expanding healthcare services in underserved areas;

(ii) Twenty percent (20%) of such surplus shall be transmitted to the Department of Mental Health and Developmental Disabilities and placed in the alcohol and drug addiction treatment fund; and

(iii) Twenty percent (20%) of such surplus shall be used by the Department of Finance and Administration, office of criminal justice programs, to provide grants to local law enforcement agencies for purposes of obtaining and maintaining equipment or personnel needed in the enforcement of alcohol related traffic offenses.

(B) For purposes of this subsection (f), "surplus" means any amount in the interlock assistance fund that exceeds one and one-half (1.5) times the amount used from the fund in the previous fiscal year to pay for the costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4, for persons found to be indigent by the court, as determined by the treasurer.

(C) Beginning on October 1, 2012, and annually thereafter, the treasurer shall report the amount of any surplus in the interlock assistance fund to the Commissioner of Finance and Administration for inclusion in the annual budget document prepared pursuant to Title 9, Chapter 4, Part 51. The general

assembly shall appropriate such surplus in accordance with the purposes provided in subdivision (f)(2)(A).

SECTION 10. Tennessee Code Annotated, Section 55-10-406(a)(3), is amended by deleting the subsection in its entirety and substituting instead the following:

(3) Any law enforcement officer who requests that the driver of a motor vehicle submit to either or both tests authorized pursuant to this section, for the purpose of determining the alcohol or drug content, or both, of the driver's blood, shall, prior to conducting either test or tests, advise the driver that refusal to submit to the test or tests will result in the suspension by the court of the driver's operator's license; if the driver is driving on a license that is cancelled, suspended or revoked because of a conviction for vehicular assault under § 39-13-106, vehicular homicide under § 39-13-213, aggravated vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant under § 55-10-401, that the refusal to submit to the test or tests will, in addition, result in a fine and mandatory jail or workhouse sentence; and if the driver is convicted of a violation of § 55-10-401, that the refusal to submit to the test or tests, depending on the person's prior criminal history, may result in the requirement that the person be required to operate only a motor vehicle equipped with a functioning ignition interlock device. The court having jurisdiction of the offense for which the driver was placed under arrest shall not have the authority to suspend the license of a driver or require the driver to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-403(a)(1)(A)(iii)(*d*), who refused to submit to either or both tests, if the driver was not advised of the consequences of the refusal.

SECTION 11. Tennessee Code Annotated, Section 55-10-412, is amended by deleting the section in its entirety and substituting instead the following:

(a) For the purpose of this part:

(1) "Functioning ignition interlock device" means a device that connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device; and

(2) "Ignition interlock provider" means an entity that has been approved and certified by the Department of Safety to provide the installation, monitoring and removal of functioning ignition interlock devices in this state.

(b)(1)(A) In addition to the penalties authorized for violations of § 55-10-401, a court may, in its discretion, upon finding a person guilty of violating § 55-10-401, order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device if such person's license is no longer suspended or revoked or such person is otherwise eligible for a restricted license pursuant to § 55-10-403(d). This restriction may continue for a period of up to one (1) year after the person's license is reinstated.

(B) The provisions of this subdivision (b)(1), authorizing the court to order an ignition interlock device for a violation of § 55-10-401, shall only apply when the court is not otherwise required to order an ignition interlock device by the provisions of § 55-10-403.

(2)(A) If a person is convicted of a first offense of § 55-10-401, and such person's sentence is not enhanced pursuant to subdivision (a)(1)(A)(iii), and the person is otherwise eligible for a restricted license pursuant to § 55-10-403(d)(1)(A), such person may request and the court may order that an ignition interlock device be installed on such person's vehicle. A person so requesting shall pay all costs associated with the ignition interlock device and no funds from the interlock assistance fund shall be used to pay any cost associated with the device, regardless of whether or not the person is indigent.

(B) If a court orders a person to operate only a motor vehicle equipped with an ignition interlock device pursuant to subdivision (b)(2)(A), the geographic restrictions set out in § 55-10-403(d)(1)(A)(iv)(*a*) shall not apply to such person.

(c) If a person is ordered to drive only a motor vehicle with a functioning ignition interlock device installed on such vehicle pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), subsection (b) or (m), such restriction shall be a condition of the person's probation or court supervision, provided such person is subject to probation or supervision for the entire period of such restriction.

(d) Upon ordering a functioning ignition interlock device pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), or subsection (b) or (m), the court shall establish a specific calibration setting of two-hundredths of one percent (.02%) blood alcohol concentration at which the functioning ignition interlock device will prevent the motor vehicle from being started.

(e) Upon ordering the use of a functioning ignition interlock device pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), or subsection (b) or (m), the court shall:

(1) State on the record the requirement for and the period of use of the device and so notify the Department of Safety;

(2) Notify the board of probation and parole or any other agency, department, program, group, private entity or association that is responsible for the supervision of the person ordered to drive only a motor vehicle with a functioning ignition interlock device;

(3) Direct that the records of the department reflect:

(A) That the person may not operate a motor vehicle that is not equipped with a functioning ignition interlock device; and

(B) Whether the court has expressly permitted the person to operate a motor vehicle without a functioning ignition interlock device for employment purposes under subsection (n); and

(4) Direct the department to attach or imprint a notation on the motor vehicle operator's license of any person restricted under this section, stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(f) Upon the court ordering a person to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), or subsection (b) or (m), the court, the board of probation and parole or any other agency, department, program, group, private entity or association that is responsible for the supervision of such person shall:

(1) Require proof of the installation of the functioning ignition interlock device on at least one (1) motor vehicle operated by such person;

(2) Require periodic reporting by the person for verification of the proper operation of the functioning ignition interlock device;

(3) Require the person to have the system monitored for proper use and accuracy by an entity approved by the Department of Safety at least every thirty (30) days, or more frequently as the circumstances may require; and

(4) Notify the court of any of the person's violations of this part.

(g)(1) If a person is ordered to drive only a motor vehicle with a functioning ignition interlock device, and such person owns or operates more than one (1) motor vehicle, the court shall also order the person to elect a motor vehicle such person will operate exclusively during the interlock period and order the device to be installed on such motor vehicle prior to applying for a motor vehicle operator's license of any kind and shall show proof of such installation and operation of such device at the time of making application for a motor vehicle operator's license to the Department of Safety or to the court. A person may elect to have a functioning interlock device installed on more than one (1) motor vehicle.

(2) If the motor vehicle that the person has elected to exclusively operate during the interlock period is no longer being used by such person, the person shall have any replacement motor vehicle exclusively used by such person installed with a functioning ignition interlock device and notify the Department of Safety and any agency, department, program, group, private entity or association that is responsible for the supervision of such person.

(h) A person prohibited under this part from operating a motor vehicle that is not equipped with a functioning ignition interlock device shall not solicit or have

another person attempt to start or start a motor vehicle equipped with such a device.

(i) A person shall not attempt to start or start a motor vehicle equipped with a functioning ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with a functioning ignition interlock device.

(j) A person shall not tamper with, or in any way attempt to circumvent, the operation of a functioning ignition interlock device that has been installed in a motor vehicle.

(k) A person shall not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of the vehicle knows or should know is prohibited from operating a motor vehicle not equipped with a functioning ignition interlock device.

(l) Except as provided in subdivision (l)(4), a person who violates subsections (h), (i), (j) or (k) commits a Class A misdemeanor:

(1) If the violation is the person's first violation, such person shall be sentenced to a minimum of forty-eight (48) hours of incarceration.

(2) If the violation is the person's second violation, such person shall be sentenced to a minimum of seventy-two (72) hours of incarceration.

(3) If the violation is the person's third or subsequent violation, such person shall be sentenced to a minimum of seven (7) consecutive days of incarceration.

(4) The penalty provisions of this subsection shall not apply if:

(A) The starting of a motor vehicle, or the request to start a motor vehicle, equipped with a functioning ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not operate the vehicle; or

(B) The court finds that a person is required to operate a motor vehicle in the course and scope of the person's employment, the requirements set out in subsection (n) are met, the vehicle is owned by the employer, and the vehicle is being operated by the person during regular working hours for the purposes of employment.

(m) If a person convicted of a violation of § 55-10-401 has a prior conviction for a violation of § 55-10-401 within the past five (5) years, the court shall order the person, or the Department of Safety shall require the person prior to issuing a motor vehicle operator's license of any kind, to operate only a motor

vehicle, after the license revocation period, which is equipped with a functioning interlock device for a period of six (6) months.

(n)(1) Any person ordered to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), or subsection (b) or (m) may, solely in the course of employment, operate a motor vehicle, which is owned or provided by such person's employer, without installation of a functioning ignition interlock device, if:

(A) The court expressly permits such operation;

(B) The employer has been notified of such driving privilege restriction; and

(C) Proof of the notification set out in subdivision (n)(1)(B) is within the vehicle, provided to the court and provided to the person's probation officer or the person responsible for the supervision of the defendant.

(2) If a court permits a person to operate a vehicle pursuant to subdivision (n)(1), the court may also place additional driving restrictions on such person that the court deems necessary to ensure compliance with this section.

(3) Subdivision (n)(1) shall not apply if such employer is an entity wholly or partially owned by the person subject to this section. If such employer is an entity wholly or partially owned by the person subject to the provisions of this section, the person shall be required to drive only a motor vehicle with a functioning ignition interlock device and no such employer exemption shall be available to such person.

SECTION 12. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following language as new sections thereto:

§ 55-10-420.

Any licensed ignition interlock provider providing a functioning ignition interlock device to a person pursuant to this part shall report to the board of probation and parole, or any other agency, department, program, group, private entity or association that is responsible for the supervision of a person who is ordered to drive only a motor vehicle with a functioning ignition interlock device installed on such vehicle as a condition of such person's probation, any evidence of such person's:

(1) Altering, tampering with, bypassing, or removing a functioning ignition interlock device;

(2) Failing to abide by the terms or conditions ordered by the court, including, but not limited to, failing to appear for scheduled monitoring visits; and

(3) Attempting to start the motor vehicle while under the influence of alcohol.

§ 55-10-421.

(a)(1) There is created in the state treasury a fund to be known as the interlock assistance fund. Except as provided in subsection (f), all money in such fund shall be used to pay for the costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by Title 55, Chapter 10, Part 4, of persons deemed by the court to be indigent. Monies in the fund shall not revert to the general fund of the state, but shall remain available to be used as provided for in subsection (f).

(2) Interest accruing on investments and deposits of the interlock assistance fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

(3) Monies in the interlock assistance fund account shall be invested by the state treasurer in accordance with § 9-4-603.

(b) Except as otherwise provided in § 55-10-412(b)(2)(A), the costs incurred in order to comply with the ignition interlock requirements shall be paid by the person ordered to install a functioning ignition interlock device, unless the court finds such person to be indigent. If a court determines that a person is indigent, the court shall order such person to pay any portion of the costs which the person has the ability to pay, as determined by the court. Any portion of the costs the person is unable to pay shall come from the interlock assistance fund established pursuant to § 55-10-403(t).

(c) Whenever a person ordered to install a device pursuant to § 55-10-403(c)(4), § 55-10-403(d)(4)(B), § 55-10-412(b) or § 55-10-412(m) asserts to the court that the person is indigent and financially unable to pay for a functioning ignition interlock device, it shall be the duty of the court to conduct a full and complete hearing as to the financial ability of the person to pay for such device and, thereafter, make a finding as to the indigency of such person.

(d) A person is indigent and financially unable to pay for a functioning ignition interlock device if the person is receiving an annual income, after taxes, of one hundred eighty-five percent (185%) or less of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

(e) Every person who informs the court that the person is financially unable to pay for a functioning ignition interlock device shall be

required to complete a uniform affidavit of indigency. If the person intentionally misrepresents, falsifies or withholds any information required by the affidavit of indigency, such person commits perjury as set out in § 39-16-702.

(f)(1) If at any time after the effective date of this act there are no funds in the interlock assistance fund or the fund is depleted, any indigent person required to have a functioning ignition interlock device who is ordered to have such pursuant to:

(A) Section 55-10-403(c)(4) or § 55-10-403(d)(4)(B) shall be ineligible for a restricted license; or

(B) Section 55-10-412(m) or § 55-10-412(b)(1) shall be ineligible to have such person's license reinstated.

(2) If at any time during the period in which an indigent person is not eligible for a restricted license or reinstatement of the person's motor vehicle operator's license due to subdivision (f)(1), such person may petition the court to have a portion or all of the costs of the ignition interlock device paid by funds from the interlock assistance fund if at anytime funds become available.

§ 55-10-422.

(a) The Tennessee Bureau of Investigation, beginning February 1, 2012, and thereafter annually, on or before February 1, shall report in writing to the Judiciary Committees of the Senate and the House of Representatives the number of times the offense of driving under the influence, set out in § 55-10-401, was charged at the time of arrest, if reported to the bureau, and any associated final disposition that has been received for the arrest.

(b) The Department of Safety, beginning February 1, 2012, and thereafter annually, on or before February 1, shall report in writing to the Judiciary Committees of the Senate and the House of Representatives the number of offenders who have, in the previous year, had installed on their motor vehicles functioning ignition interlock devices and whether the installation of each device was pursuant to the requirement set out in:

(1) § 55-10-403(c)(4);

(2) § 55-10-403(d)(4)(B);

(3) § 55-10-412(b)(1);

(4) § 55-10-412(b)(2); or

(5) § 55-10-412(m).

(c) For purposes of this section, "previous year" means from January 1 to December 31 of the year immediately preceding the February 1 reporting date.

§ 55-10-423.

(a) From January 1, 2011, until June 30, 2012:

(1) An ignition interlock provider shall not charge more than seventy dollars ($70.00) for installing one (1) ignition interlock device; and

(2) An ignition interlock provider shall not charge more than a total of one hundred dollars ($100.00) per month for leasing, purchasing, monitoring, removing and maintaining an ignition interlock device.

(b) By July 1, 2012, the Department of Safety shall establish, through rules and regulations promulgated in accordance with Title 4, Chapter 5:

(1) The maximum fees that may be charged for installing, leasing, purchasing, monitoring, removing and maintaining an ignition interlock device; and

(2) Requirements that ensure that certified ignition interlock providers have the ability to provide devices to any resident in the state.

(c)(1) From the effective date of this act until January 1, 2012, the Department of Safety in consultation with the treasurer shall conduct a study to determine:

(A) The amount of fee that should be established pursuant to § 55-10-403(t) in order to keep the interlock assistance fund solvent;

(B) The maximum fees to be charged pursuant to subsection (b), taking into consideration the goal of making the interlock device affordable to all offenders in this state; and

(C) The necessary requirements that should be established in order to ensure that providers have the ability to provide devices to any resident in the state.

(2) The Department of Safety shall report the findings of its study conducted pursuant to subdivision (c)(1) to the House and Senate Judiciary Committees on or before January 1, 2012.

SECTION 13. Tennessee Code Annotated, Section 55-50-504, is amended by adding the following new subsection (k) thereto:

(k) Notwithstanding subdivision (a)(1), a person who drives a motor vehicle without a functioning ignition interlock device installed on such vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person was required by law to drive only a motor vehicle equipped with a functioning ignition interlock device commits a Class B misdemeanor and shall be punished by confinement for not less than seven (7) days nor more than six (6) months, and there may be imposed, in addition, a fine of not more than one thousand dollars ($1,000).

SECTION 14. The administrative office of the courts shall develop and provide training to judges with jurisdiction over violations of § 55-10-401 to provide such judges with adequate knowledge to perform their duties under this act.

SECTION 15. The treasurer shall establish a method by which ignition interlock providers, as defined in § 55-10-412(a)(2), are reimbursed from the interlock assistance fund for the payment of the costs associated with the lease, purchase, installation, removal and maintenance of ignition interlock devices for persons found to be indigent.

SECTION 16. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the General Appropriations Act.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18.

(1) For the purpose of promulgating rules and regulations necessary to effectuate this act and conducting the study required by § 55-10-423(c), this act shall take effect upon becoming a law, the public welfare requiring it.

(2) Section 9 of this act shall take effect July 1, 2010, the public welfare requiring it.

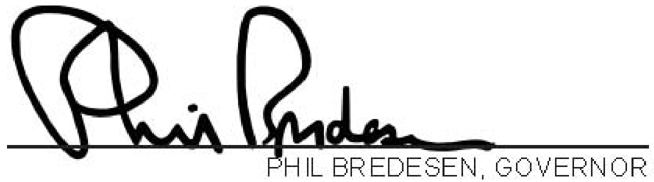
(3) For all other purposes, this act shall take effect January 1, 2011, the public welfare requiring it, and shall apply to applicable offenses of driving under the influence occurring on or after January 1, 2011, the public welfare requiring it.

PASSED: May 10, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 922

SENATE BILL NO. 2982

By Tate, Black, Faulk, Burks

Substituted for: House Bill No. 2968

By Ulysses Jones, White, Ford, Roach, Maggart, Hardaway, Lynn, Weaver, Moore, Coleman, Shaw, Litz, Coley, Towns

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4, relative to the prohibition of drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-438, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

> (a) It is an offense to knowingly produce, manufacture, distribute, possess or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant salvia divinorum or the synthetic cannabinoids JWH-018, JWH-073, HU-210 and HU-211; provided however, the provisions of this subsection concerning the synthetic cannabinoids JWH-018, JWH-073, HU-210 and HU-211 shall not apply to drugs or subtances lawfully prescribed or to drugs or substances which have been approved by the federal Food and Drug Administration.

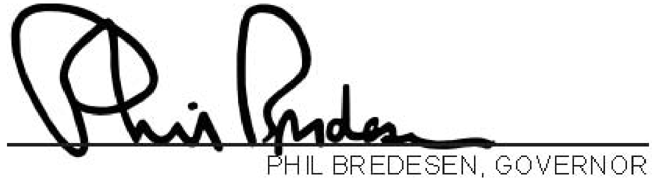
SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 13, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 929

SENATE BILL NO. 3246

By Tate, Ford

Substituted for: House Bill No. 3874

By Ulysses Jones, Cooper, Hardaway, Gilmore, Pruitt, Johnnie Turner, Richardson, White, Coley

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, Part 30, relative to truancy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-3009, is amended by adding the following language as a new, appropriately designated subsection:

(c) As an alternative to prosecution for a Class C misdemeanor, at the prosecutor's discretion, parents, guardians or any other person, who has control of a child or children against whom a petition of truancy has been brought for being absent more than five (5) days during the school year, may participate in parent education training and parent-teacher conferences. The prosecutor may provide the parent, guardian or other person with the option to participate in such alternative program prior to filing the criminal charge. Failure of the parent, guardian or other person to timely respond to such option shall result in the revocation of the option and immediate filing of the criminal charge.

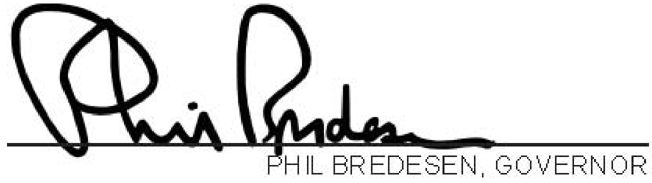
SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 6, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 937

SENATE BILL NO. 3439

By Tracy, Ketron, Marrero, Burchett, Burks, Overbey, Black

Substituted for: House Bill No. 3691

By Coleman, Richardson, Todd, Carr, Harrison, Marsh, Johnnie Turner, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 11, relative to bail for individuals with mental illness.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-11-111, is amended by deleting the section in its entirety and substituting instead the following:

(a) Individuals who are unable to perform activities of daily living as the result of a severe and persistent mental illness, or individuals who have been adjudicated mentally incompetent, or infants, need not personally make the deposit or execute the bail bond as may be required under §§ 40-11-101 – 40-11-144, but the deposit and execution may be made for such individuals by anyone found by the sheriff or clerk taking the bond to be a responsible substitute.

(b) For the purposes of this section, an individual shall be considered to have a severe and persistent mental illness if:

(1) Such individual has a psychiatric diagnosis or symptoms consistent with a psychiatric diagnosis as specified in the latest edition of the *American Psychiatric Association Diagnostic and Statistical Manual*; and

(2) Such individual has delusions, hallucinations, extremely disorganized thinking or other significant disruptions of consciousness, memory, and perception that are not attributable solely to the acute effects of alcohol or other drugs; and

(3) Such individual has a documented medical history of the items listed in subdivisions (b)(1) and (b)(2).

(c) For purposes of this section, unless the context otherwise requires:

(1) "Delusions" means fixed, clearly false beliefs; and

(2) "Hallucinations" means clearly erroneous perceptions of reality.

SECTION 2. Tennessee Code Annotated, Section 40-11-150, is amended by adding the following new subsection (l):

> (l)(1)(A) Any officer who has reason to believe that a defendant under arrest may pose a substantial likelihood of serious harm to the defendant or to others may make a recommendation to the community mental health crisis response service that the defendant be evaluated by a member of such service to determine if the defendant is subject to admission to a hospital or treatment resource pursuant to § 33-6-403.
>
> > (B) The assessment of the defendant by a member of a community mental health crisis response service shall be completed within twelve (12) hours from the time the defendant is in custody or the magistrate or other official with the authority to determine bail shall set bail and admit the defendant to bail, when appropriate. However, if the assessment is being conducted at the end of the twelve (12) hour period, the member of the community mental health crisis response service may complete the assessment. The magistrate or other official duly authorized to release the defendant may, however, release the accused in less than twelve (12) hours if the official determines that sufficient time has or will have elapsed for the victim to be protected.
> >
> > (C) If the assessment of the defendant by the member of the community mental health crisis response service indicates that the defendant does not meet the standards of § 33-6-403, the officer who has reasonable cause to believe that the defendant may pose a substantial likelihood of serious harm shall so report to the magistrate or other official with the authority to determine bail and such magistrate or official shall set bail and admit the defendant to bail, when appropriate.
>
> (2) The officer who has reasonable cause to believe that the defendant may pose a substantial likelihood of serious harm shall note the time the defendant was taken into custody for purposes of beginning the twelve (12) hour assessment period provided in subdivision (l)(1)(B) of this subsection.

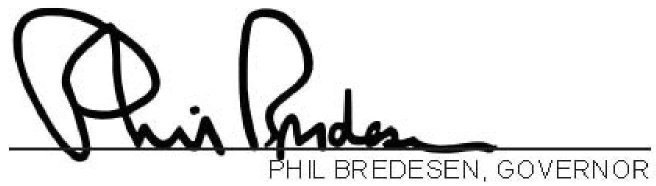
SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 12, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 938

SENATE BILL NO. 3457

By Yager

Substituted for: House Bill No. 3489

By Ferguson

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 9, Part 4, relative to lighting on certain vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-9-402(e)(1), is amended by deleting the language "other than in the tail light lamp, stoplight area, or factory installed emergency flasher and backup light area, if the light system is a strobe, flashing, oscillating, or revolving system,".

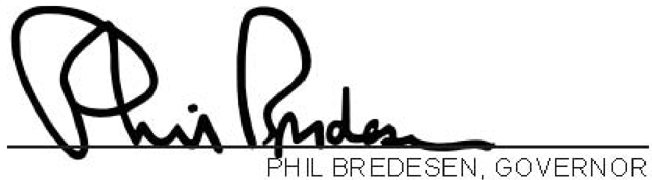
SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 10, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 941

SENATE BILL NO. 3627

By McNally, Yager, Bunch

Substituted for: House Bill No. 3964

By Ferguson, Matlock

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4, relative to drug testing fees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-420(k), is amended by deleting such subsection in its entirety and substituting instead the following:

(k) Notwithstanding any other provision of law to the contrary, any drug testing fee of twenty dollars ($20.00) and any other fees that were assessed and collected in any county of the ninth judicial district before such fees were repealed in 2007 shall be designated for use by the ninth judicial district drug task force.

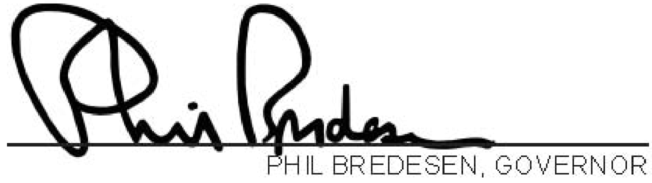
SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 10, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010


PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 949

HOUSE BILL NO. 238

By Representatives John DeBerry, Hardaway, Shaw, Lollar, Coley, McManus, McDaniel, Ford, West, Fincher, Lundberg, Todd, Sontany, Towns, Faulkner, Maggart, Eldridge, Dean, Litz, Richardson, Bass, Watson, Moore, Phillip Johnson, Pitts, Shipley, Halford, Floyd, White, Bone

Substituted for: Senate Bill No. 555

By Senators Norris, Ketron, Burchett, Henry, Tate, Marrero, McNally, Ford

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17 and Title 44, Chapter 8, relative to vicious animals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following new section thereto:

§ 39-17-1363.

(a) For purposes of this section:

(1) "Potentially vicious dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:

(A) When unprovoked and off the property of the owner or keeper of the dog, inflicts a bite causing bodily injury, as defined in § 39-11-106, to a person or domestic animal; or

(B) When unprovoked and off the property of the owner or keeper of the dog, on two (2) or more separate occasions, chases, menaces or approaches a person or domestic animal in an aggressive manner or apparent attitude of attack; and

(2) "Vicious dog" means 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, as defined by § 39-11-106, to such person; and

(3) "Violent felony" means:

(A) Any felony involving the use or attempted use of force, violence or a deadly weapon;

(B) A violation of §§ 39-17-417, 39-17-433 or 39-17-435; or

(C) A violation of §§ 39-14-203(a)(1)—(3), 39-14-205, 39-14-212 or 39-14-214.

(b) It is an offense for any person convicted of a violent felony to knowingly own, possess, have custody or control of a potentially vicious dog or a vicious dog for a period of ten (10) years after such person has been released from custody following completion of sentence or is no longer under active probation, community correction or parole supervision for such violent felony, whichever date is later.

(c) It is an offense for any person convicted of a violent felony to own, possess, have custody or control of a dog that:

(1) Is not micro chipped for permanent identification; and

(2) Is not spayed or neutered and is older than twelve (12) weeks of age.

(d) A violation of this section is a Class A misdemeanor.

(e)

(1) It is an affirmative defense to prosecution under subsection (c), which must be proven by a preponderance of the evidence, that the dog in question is microchipped and neutered or spayed, or that the dog in question was microchipped and neutered or spayed within thirty (30) days of the defendant being charged with a violation of this section.

(2) Medical records from, or a certificate by, a person who is licensed by the person's state of residence as a doctor of veterinary medicine, whose license is in good standing and who has personally examined, inserted a microchip in, or operated upon the dog, indicating that the dog in question has been microchipped or spayed or neutered, shall be sufficient evidence that the dog in question has been microchipped or spayed or neutered.

(3) If the dog in question is microchipped by a different doctor than the doctor who spayed or neutered the dog, medical records or a certificate indicating that both procedures have been performed are required for purposes of this defense.

(f) The provisions of this section shall only apply if a person's conviction for a violent felony occurs on or after July 1, 2010.

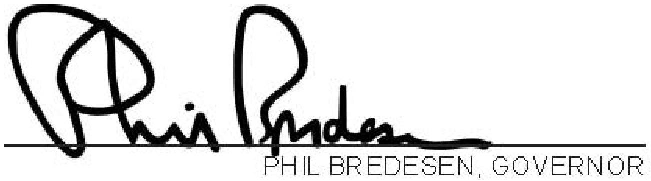
SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 12, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 951

HOUSE BILL NO. 1277

By Representatives Gilmore, Cooper, Hardaway, Shaw, Moore

Substituted for: Senate Bill No. 1113

By Senators Harper, Marrero

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 32, Part 1, relative to expungment of certain public records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-32-101, is amended by deleting subdivision (a)(1)(A)(iii) and redesignating accordingly.

SECTION 2. Tennessee Code Annotated, Section 40-32-101, is amended by adding the following new subdivision (a)(1)(F):

> (F) Upon a verdict of not guilty being returned, whether by a judge following a bench trial or by a jury, on all charges for which the defendant was accused, the judge shall inquire of the person acquitted whether such person requests that all public records associated with the charges for which such person was acquitted be removed and destroyed without cost to the person and without the requirement that the person petition for destruction of such records. If the person requests that the public records related to such charges be removed and destroyed, the court shall so order. If the person acquitted does not request that such records be destroyed at the time the judge inquires pursuant to this subsection (F), but subsequently requests that such records be destroyed, the person shall be required to follow the petition procedure set out in this section.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 6, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010

PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 953

HOUSE BILL NO. 2506

By Representatives Matlock, Watson, Rich, Jim Cobb, Dean

Substituted for: Senate Bill No. 2545

By Senator Bunch

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 6, relative to the possession of certain electronic devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 6, is amended by adding the following as a new section:

Section 39-13-608.

(a) It is an offense for a person to knowingly 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.

(b) For purposes of this section, “radio frequency transmission” means 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.

(c) A violation of this section is a Class A misdemeanor.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 10, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010

PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 962

HOUSE BILL NO. 3164

By Representatives Curtiss, Fincher

Substituted for: Senate Bill No. 3134

By Senators McNally, Overbey, Jackson, Black

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, Part 28, relative to the unauthorized substances tax.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by deleting Part 28 in its entirety and by substituting instead the following language:

67-4-2801. The purpose of this part is to levy a tax on every merchant of unauthorized substances to generate revenue for state and local law enforcement agencies for use by those agencies to investigate, combat, prevent and reduce drug crimes, and for the general fund. Such tax shall be measured by the quantity of unauthorized substances sold, bartered, traded, or distributed to another for consideration or the quantity of unauthorized substances possessed with intent to sell, barter, trade, or distribute to another for consideration. This is not a criminal statute. It is a civil taxing measure contributing to the general revenue fund and a civil remedial measure designed to mitigate against the enormous costs of law enforcement related to drug control for state and local government. Nothing in this part may in any manner provide immunity from criminal prosecution for a person who possesses an illegal substance.

67-4-2802. As used in this part, unless the context clearly requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Controlled substance" means a controlled substance as defined in § 39-17-402, and not included in "low-street-value drugs";

(3) "Illicit alcoholic beverage" means an alcoholic beverage, as defined in § 57-3-101, not authorized by the Tennessee alcoholic beverage commission. "Illicit alcoholic beverage" includes, but is not limited to, the products known as "bootleg liquor," "moonshine," "non-tax-paid liquor," and "white liquor;"

(4) "Local law enforcement agency" means a municipal police department, a metropolitan police department, or a sheriff's office;

(5) "Low-street-value drug" means any of the following controlled substances:

(A) An anabolic steroid as defined in § 39-17-410(f);

(B) A depressant described in § 39-17-412(c);

(C) A hallucinogenic substance described in § 39-17-406(d);

(D) A stimulant described in § 39-17-412(e); or

(E) A controlled substance described in § 39-17-414;

(6) "Marijuana" means all parts of the plant of the genus cannabis, whether growing or not; the seeds of this plant; the resin extracted from any part of this plant; and every compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its resin;

(7) "Merchant" means a merchant or peddler within the scope of Article II, Section 28 of the Constitution of Tennessee and includes any person who sells, barters, trades, or distributes to another for consideration any unauthorized substances in a quantity sufficient to create a principal tax liability of at least ten thousand dollars ($10,000) under § 67-4-2803(a). Any person who actually or constructively possesses, at a particular time, any unauthorized substances in a quantity sufficient to create a principal tax liability of at least ten thousand dollars ($10,000) under § 67-4-2803(a) is presumed to be possessing the unauthorized substances for the purpose of sale, barter, trade, or distribution to another for consideration and is presumed to be a merchant within the meaning of this subsection; such presumption may be rebutted only by clear and convincing evidence that such person did not sell, barter, trade, or distribute for consideration such substances or intend to do so;

(8) "Person" means person as defined in § 39-17-402;

(9) "State law enforcement agency" means any state agency, force, department, or unit responsible for enforcing criminal laws; and

(10) "Unauthorized substance" means a controlled substance, a low-street-value drug or an illicit alcoholic beverage.

67-4-2803.

(a) A tax, as follows, is levied on and payable by any merchant of unauthorized substances:

(1) Forty cents (40¢) for each gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated

from and are not mixed with any other parts of the marijuana plant;

(2) Three dollars and fifty cents ($3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (a)(1) or plants with foliation taxed under subdivision (a)(3);

(3) Three hundred fifty dollars ($350) per plant, whether growing or detached from the soil, on each marijuana plant with foliation;

(4) Fifty dollars ($50.00) for each gram, or fraction thereof, of cocaine;

(5) Two hundred dollars ($200) for each gram, or fraction thereof, of any other controlled substance or low-street-value drug that is sold by weight;

(6) Fifty dollars ($50.00) for each ten (10) dosage units, or fraction thereof, of any low-street-value drug that is not sold by weight;

(7) Two hundred dollars ($200) for each ten (10) dosage units, or fraction thereof, of any other controlled substance that is not sold by weight;

(8) Thirty-one dollars and seventy cents ($31.70) for each gallon, or fraction thereof, of illicit alcoholic beverages sold by the drink; or

(9) Twelve dollars and eighty cents ($12.80) for each gallon, or fraction thereof, of illicit alcoholic beverages not sold by the drink.

(b) A quantity of marijuana or other unauthorized substance is measured by the weight of the substance whether pure, impure or dilute, or by the number of dosage units in the merchant's possession when the substance is not sold by weight. A quantity of an unauthorized substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

(c) For purposes of this part, a person constructively possesses an unauthorized substance when the person has:

(1) Knowledge of the unauthorized substance; and

(2) The ability and intention to exercise control over the unauthorized substance.

67-4-2804.

(a) The tax levied in this part does not apply to an unauthorized substance in the possession of a merchant who is authorized by law to possess the substance. This exemption applies only during the time the merchant's possession of the unauthorized substance is authorized by law.

(b) The tax levied in this part does not apply to the following marijuana:

(1) Harvested mature marijuana stalks when separated from and not mixed with any other parts of the marijuana plant;

(2) Fiber or any other product of marijuana stalks described in subdivision (b)(1), except resin extracted from the stalks;

(3) Marijuana seeds that have been sterilized and are incapable of germination; or

(4) Roots of the marijuana plant.

67-4-2805.

(a) The commissioner shall issue stamps to affix to unauthorized substances to indicate payment of the tax by the merchant required by this part. A merchant shall report the taxes payable under this part at the time and on the form prescribed by the commissioner. The merchant is not required to give the merchant's name, address, social security number, or any other identifying information on the form. Upon payment of the tax, the commissioner shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(b) Every local law enforcement agency and every state law enforcement agency must report to the department of revenue within forty-eight (48) hours after seizing an unauthorized substance from or making an arrest of a merchant under this part when the appropriate stamps as required by this part have not been affixed to the unauthorized substances. The report shall be in the manner prescribed by the commissioner and shall include the time and place of the arrest or seizure, the amount, location, and kind of substance, the identification of any merchant and such merchant’s social security number, and any other information prescribed by the commissioner.

67-4-2806.

(a) The tax imposed by this part pursuant to § 67-4-2803, evidenced by a stamp issued by the commissioner and permanently affixed to unauthorized substances pursuant to subsection (b), is payable by a merchant within forty-eight (48) hours after the merchant acquires

actual or constructive possession of unauthorized substance on which a stamp has not been affixed, exclusive of Saturdays, Sundays, and legal holidays of this state, in which case the tax is payable on the next working day. If the tax is not paid within forty-eight (48) hours, the tax shall become delinquent and shall accrue penalty and interest pursuant to the provisions of chapter 1, part 8 of this title.

(b) Upon payment of the tax and receipt of the tax stamps, the merchant shall permanently affix the appropriate stamps to the unauthorized substance.

(c) Once the tax due levied pursuant to this part has been paid, no additional tax is due and payable by a merchant in accordance with this part who may subsequently acquire or handle the unauthorized substance on which an appropriate stamp has been affixed.

(d) If a merchant is found in possession of a substance taxable under this part on which an appropriate stamp has not been affixed, it shall be presumed the merchant has been in possession of such substance for longer than forty-eight (48) hours, exclusive of Saturdays, Sundays, and legal holidays of this state.

67-4-2807. Notwithstanding any other law, an assessment against a merchant under this part on which a stamp has not been affixed as required by this part shall be made as provided in this section. The commissioner shall assess the tax, applicable penalty, and interest based on any information brought to the attention of the commissioner, or the commissioner's duly authorized assistants, that a merchant is liable for unpaid tax pursuant to this part. The tax shall be assessed in the same manner as any other tax assessment, except when this part specifies otherwise. The commissioner shall notify the merchant in writing of the amount of the tax, penalty, and interest due. The notice of assessment shall be either mailed to the merchant at the merchant's last known address or served on the merchant in person. If the merchant does not pay the tax, penalty, and interest upon receipt of the notice of assessment, the commissioner shall collect the assessment, including penalty and interest, pursuant to the procedures set forth in chapter 1, parts 14 and 18, of this title. The merchant may seek review of the assessment as provided in chapter 1, part 18, of this title. Section 67-1-1802 is applicable to the tax levied by this part.

67-4-2808.

(a) Notwithstanding any other provision of law, information obtained as a result of a merchant’s efforts to comply with this part is confidential and, unless obtained independently from any acts undertaken by a merchant to comply with the tax levied by this part, such acts, including the taxpayer’s maintenance of a suit to determine liability under the tax levied by this part, may not be disclosed by the commissioner or used in a criminal prosecution other than a prosecution for a violation of this part.

(b) The provisions of chapter 1, part 17, of this title, including the criminal penalties specified therein, shall apply to the tax levied under this part, except that no information shall be disclosed pursuant to chapter 1, part 17, of this title unless that information was obtained independently from any acts undertaken by a merchant to comply with the tax levied by this part, such acts including the taxpayer's maintenance of a suit to determine liability under the tax levied by this part.

(c) This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of merchants or the contents of particular returns or reports.

67-4-2809.

(a) The commissioner shall credit the proceeds of the tax levied by this part to a special nonreverting account to be called the state unauthorized substances tax account, until the tax proceeds are unencumbered. The commissioner shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis.

(b)

(1) Tax proceeds are unencumbered when:

(A) The tax has been paid and the collection process completed; and

(B)

(i) The taxpayer has no current right to file a refund claim, and the paid tax is not the subject of any pending lawsuit for the recovery of that tax; or

(ii) The time for the taxpayer to file suit pursuant to § 67-1-1802(c) has expired.

(2)

(A) The commissioner shall first apply the unencumbered tax proceeds to the costs of storing and disposing of the assets seized in payment of the assessment under this part and then to the costs incurred by the commissioner due to implementation and enforcement of this part, which costs shall be added to and become part of the assessment.

(B)

(i) From the remaining proceeds, the commissioner shall remit seventy-five percent

(75%) of the unencumbered tax proceeds that were collected by assessment to the state or local law enforcement agency that conducted the investigation of a merchant that led to the assessment. Such proceeds are to be used by the agency solely for the purpose of investigating, combating, preventing, and reducing drug crimes.

(ii) If more than one (1) state or local law enforcement agency conducted the investigation, then the commissioner shall determine the equitable share for each agency based on the contribution each agency made to the investigation.

(iii) The commissioner's determination of the equitable share for each agency shall be final and shall not be subject to review in an administrative or judicial proceeding.

(C) The commissioner shall credit the remaining unencumbered tax proceeds to the general fund.

(c) Notwithstanding any other provision of this section, in the event the tax levied by this part is voluntarily paid to the department of revenue, and not as a result of an investigation or arrest by a state or local law enforcement agency, such voluntarily paid tax shall be considered unencumbered upon payment, and the commissioner shall credit the entire tax proceeds to the general fund.

67-4-2810. The provisions of this part shall not be construed to confer any immunity from criminal prosecution or conviction for a violation of title 39, chapter 17, part 4, upon any person who voluntarily pays the tax imposed by this part or who otherwise complies with the provisions of this part.

67-4-2811. The commissioner shall have the authority to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement, administer and enforce the provisions of this part.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 10, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010

PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 964

HOUSE BILL NO. 3196

By Representatives Faulkner, Fincher, Maggart, Lynn

Substituted for: Senate Bill No. 3169

By Senators Burchett, Ketron, Overbey, Watson, Yager, Faulk, Tracy, Johnson and Mr. Speaker Ramsey

AN ACT to amend Tennessee Code Annotated, Title 38; Title 39 and Title 40, relative to persons who commit sexual offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-6-113(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) The bureau shall adopt uniform procedures to maintain, preserve and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis. The centralized system shall contain convicted felon profiles, forensic unknown profiles, criminal suspect profiles, violent juvenile sexual offender profiles, and missing person profiles. The detention, arrest or conviction of a person based upon a databank match or database information is not invalidated, if it is later determined that the specimens or samples were obtained or placed in the database by mistake.

(2) For purposes of this subsection, "violent juvenile sexual offender" means any person adjudicated delinquent for any act that if committed by an adult would constitute a violation of § 39-13-502, § 39-13-503, § 39-13-504, § 39-13-505, § 39-13-522, § 39-13-531 or § 39-15-302.

SECTION 2. Tennessee Code Annotated, Section 40-35-321(b), is amended by deleting the language "§ 39-13-522 or § 39-15-302" and substituting instead the language "§ 39-13-522, § 39-13-531 or § 39-15-302".

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 10, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010

PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 966

HOUSE BILL NO. 3267

By Representative Harmon

Substituted for: Senate Bill No. 3044

By Senator Tracy

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, Part 3, relative to regulation of traffic offenses by municipalities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-307, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

> (a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 — 55-10-310, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, 55-10-312, and 55-12-139, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the provisions of the listed sections. All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.

SECTION 2. Tennessee Code Annotated, Section 55-10-308, is amended by deleting the section in its entirety and by substituting instead the following language:

> Where chapter 8 of this title and §§ 55-10-101 — 55-10-310 apply to territory within the limits of a municipality, the primary responsibility for enforcing the sections shall be on the municipality which shall be further authorized to enforce the additional ordinances for the regulation of the operation of vehicles as it deems proper; provided, however, that any municipality having a population of ten thousand (10,000) or less, according to the 2000 federal census or any subsequent federal census, must exercise the authority conferred by this section in full compliance with the rules promulgated by the commissioner of safety to regulate enforcement of chapter 8 of this title and §§ 55-10-101 — 55-10-310, on the portions of any highway designated and known as part of the national system of interstate and defense highways lying within the territorial limits of the municipalities; provided, that this restriction shall not apply to drug interdiction officers employed by the municipality while the officers are actively serving with any judicial district drug force.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 6, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of May 2010

PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 979

SENATE BILL NO. 3267

By Harper, Burks

Substituted for: House Bill No. 3412

By Brown, Hardaway, Fincher, Mike Turner, Sherry Jones, Gilmore, Pruitt, Moore, Borchert, Fraley, Stewart, Curtiss, Ty Cobb, Shaw, Bone, Favors, Dean

AN ACT to amend Tennessee Code Annotated, Title 37; Title 39 and Title 40, relative to child abuse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-403(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) The report shall include, to the extent known by the reporter, the name, address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

SECTION 2. Tennessee Code Annotated, Section 37-1-403(c)(1), is amended by deleting the word "immediately" and substituting instead the language "immediately upon the receipt of such information,".

SECTION 3. Tennessee Code Annotated, Section 37-1-403(c), is amended by adding the following as a new subsection:

(3)(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

SECTION 4. Tennessee Code Annotated, Section 37-1-403(i), is amended by adding the following as a new subdivision (1) and renumbering current subdivision (1) and the subsequent subdivisions accordingly:

> (1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the Department of Children's Services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

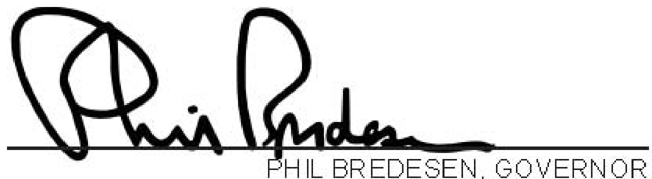
SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 13, 2010

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of May 2010



PHIL BREDESEN, GOVERNOR

PUBLIC CHAPTER NO. 981

HOUSE BILL NO. 3577

By Representative Sherry Jones

Substituted for: Senate Bill No. 3380

By Senators Marrero, Ford

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6; Title 39, Chapter 13; Title 40, Chapter 11, Part 1 and Title 40, Chapter 35, Part 3, relative to the definitions concerning domestic abuse and domestic abuse victims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-606, is amended by deleting subdivision (e) and substituting instead the following:

> (e) If the petitioner is a victim as defined in § 36-3-601(10) or (11), the provisions of subdivisions (a)(4) and (5) shall not apply to such petitioner.

SECTION 2. Tennessee Code Annotated, Section 39-13-101, is amended by deleting the first sentence of subdivision (b)(2) and substituting instead the following:

> (2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(5), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200).

SECTION 3. Tennessee Code Annotated, Section 39-13-102, is amended by deleting the first sentence of subdivision (e)(2) and substituting instead the following:

> (2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(5), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200).

SECTION 4. Tennessee Code Annotated, Section 40-35-303, is amended by deleting subdivision (c)(2)(C)(ii) and substituting instead the following:

(ii) Assault as prohibited by § 39-13-101, vandalism as prohibited by § 39-14-408, or false imprisonment as prohibited by § 39-13-302, where the victim of the offense is a person identified in § 36-3-601(5);

SECTION 5. Tennessee Code Annotated, Section 40-11-150, is amended by deleting subsection (a) and substituting instead the following:

(a) In addition to the factors set out in § 40-11-118, in making a decision concerning the amount of bail required for the release of a defendant who is arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, as defined in § 39-17-315, any criminal offense defined in title 39, chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), (10), or (11), or is in violation of an order of protection as authorized by title 36, chapter 3, part 6, the magistrate shall review the facts of the arrest and detention of the defendant and determine whether the defendant is:

(1) A threat to the alleged victim;

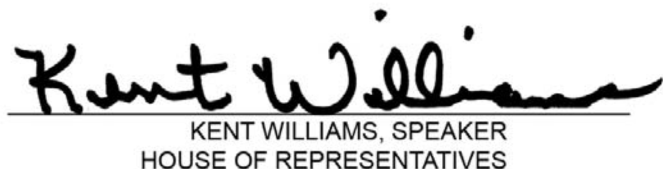
(2) A threat to public safety; and

(3) Reasonably likely to appear in court.

SECTION 6. Tennessee Code Annotated, Section 40-35-303, is amended by deleting from subsection (m) the citation "§ 36-3-601(8)" and substituting instead the citation "§ 36-3-601(5)".

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

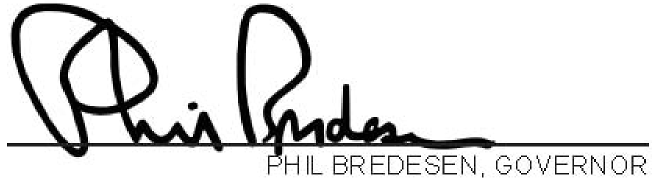
PASSED: May 13, 2010



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27th day of May 2010



PHIL BREDESEN, GOVERNOR