

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 412

HOUSE BILL NO. 351

**By Representatives Hackworth, Hardaway, Faulkner, Rich, Todd, Dean, Watson, Harry Brooks, Fincher, Evans, Moore, Eldridge, Ty Cobb, Bass, McDonald, Windle, Lollar, Shipley**

Substituted for: Senate Bill No. 539

By Senators Ketron, Burks

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 1, to create certain criminal offenses involving assault.

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

SECTION 1. Tennessee Code Annotated, Section 39-13-101(b), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided that if the offense is committed against a law enforcement officer under any provision of this section, then the maximum fine shall be five thousand dollars (\$5,000).

SECTION 2. Tennessee Code Annotated, Section 39-13-102(d), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Aggravated assault under subdivision (a)(1) or subsection (b) or (c) is a Class C felony. Aggravated assault under subdivision (a)(2) is a Class D felony. However, if an offense under subdivision (a)(1) or (a)(2) or subsection (c) is committed against a law enforcement officer, then the maximum fine shall be fifteen thousand dollars (\$15,000).

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 2, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 11th day of June 2009



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 413

HOUSE BILL NO. 619

**By Representatives Maggart, Sontany, Coleman, Dean, Bass, Casada, Sherry Jones, Shipley, Eldridge, Carr, Faulkner, Fincher, Watson, Moore, Lundberg, Haynes, Halford, Ty Cobb, Hackworth, Litz, Pitts, Odom, Rich, Hardaway, Coley, Shaw, McCormick, Weaver, Hensley, Todd, Niceley, Gilmore, Curtis Johnson, Brown, Barker and Mr. Speaker Williams**

Substituted for: Senate Bill No. 312

By Senators Black, Gresham, Burks, Finney

AN ACT to amend Tennessee Code Annotated, Title 24, relative to evidence and witnesses.

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

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 7, Part 1, is amended by adding the following as a new section:

Section 24-7-123.

(a) Notwithstanding any provision of this part to the contrary, a video recording of an interview of a child by a forensic interviewer containing a statement made by such child under thirteen (13) years of age describing any act of sexual contact performed with or on such child by another is admissible and may be considered for its bearing on any matter to which it is relevant in evidence at the trial of the person for any offense arising from such sexual contact if the requirements of this section are met.

(b) A video recording may be admitted as provided in subsection (a) if:

(1) The child testifies, under oath, that the offered video recording is a true and correct recording of the events contained therein, and the child is available for cross examination;

(2) The video recording is shown to the reasonable satisfaction of the court, in a hearing conducted pre-trial, to possess particularized guarantees of trustworthiness. In determining whether a statement possesses particularized guarantees of trustworthiness, the court shall consider the following factors:

(A) The mental and physical age and maturity of the child;

(B) Any apparent motive the child may have to falsify or distort the event, including but not limited to, bias or coercion;

(C) The timing of the child's statement;

(D) The nature and duration of the alleged abuse;

(E) Whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;

(F) Whether the statement is spontaneous or directly responsive to questions;

(G) Whether the manner in which the interview was conducted was reliable, including but not limited to, the absence of any leading questions;

(H) Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement;

(I) The relationship of the child to the offender;

(J) Whether the equipment that was used to make the video recording was capable of making an accurate recording; and

(K) Any other factor deemed appropriate by the court.

(3) The interview was conducted by a forensic interviewer who met the following qualifications at the time the video recording was made, as determined by the court:

(A) Was employed by a child advocacy center that meets the requirements of § 9-4-213 (a) or (b);

(B) Had graduated from an accredited college or university with a bachelor's degree in a field related to social service, education, criminal justice, nursing, psychology or other similar profession;

(C) Had experience equivalent to three (3) years of fulltime professional work in one or a combination of the following areas:

(i) Child protective services;

(ii) Criminal justice;

(iii) Clinical evaluation;

(iv) Counseling; or

(v) Forensic interviewing or other comparable work with children;

(D) Had completed a minimum of forty (40) hours of forensic training in interviewing traumatized children and fifteen (15) hours of continuing education annually;

(E) Had completed a minimum of eight (8) hours of interviewing under the supervision of a qualified forensic interviewer of children;

(F) Had knowledge of child development through coursework, professional training or experience;

(G) Had no criminal history as determined through a criminal records background check; and

(H) Had actively participated in peer review.

(4) The recording is both visual and oral and is recorded on film or videotape or by other similar audio-visual means;

(5) The entire interview of the child was recorded on the video recording and the video recording is unaltered and accurately reflects the interview of the child; and

(6) Every voice heard on the video recording is properly identified as determined by the court.

(c) The video recording admitted pursuant to this section shall be discoverable pursuant to the Tennessee rules of criminal procedure.

(d) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

(e) The court shall enter a protective order to restrict the video recording used pursuant to this section from further disclosure or dissemination. Such video recording shall not become a public record in any legal proceeding. The court shall order the video recording be sealed and preserved following the conclusion of the criminal proceeding.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: May 28, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 11th day of June 2009**

  
PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 414

HOUSE BILL NO. 620

By Representatives Maggart, Eldridge, Hawk, Carr, Shipley, Jim Cobb,  
Faulkner

Substituted for: Senate Bill No. 869

By Senator Black

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 40, relative to criminal offenses.

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

SECTION 1. Tennessee Code Annotated, Section 39-13-511(b)(1)(B)(ii), is amended by deleting the language "subdivision (b)(1)(B)(i)" and substituting instead the language "subdivision (b)(1)(B)(i) or (b)(1)(B)(ii)".

SECTION 2. Tennessee Code Annotated, Section 39-13-511(b)(1)(B), is amended by inserting the following as new subdivision (ii) and (iii) and designating the existing subdivision (ii) as subsection (iv).

(ii) Knowingly engages in the person's own residence, in the intended presence of any child, for the defendant's sexual arousal or gratification the following intentional conduct:

(a) Exposure of such person's genitals, buttocks or female breasts; or

(b) Masturbation.

(iii) No prosecution shall be commenced for a violation of subdivision (b)(1)(B)(ii)(a) based solely upon the uncorroborated testimony of a witness who shares with the accused any of the relationships described in § 36-3-601(5).

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 3, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 11th day of June 2009



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 418

HOUSE BILL NO. 1201

By Representatives Pitts, Tindell, Campfield, Ty Cobb, Fincher

Substituted for: Senate Bill No. 1666

By Senators Finney, Overbey, Marrero, Black, Ford

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 1; Title 39, Chapter 11 and Title 39, Chapter 15, relative to the offenses of child abuse, neglect and endangerment.

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

SECTION 1. Tennessee Code Annotated, Section 39-15-401, is amended by inserting the following new subsection (c) and redesignating existing subsections accordingly:

(c)

(1) A parent or custodian of a child eight (8) years of age or less commits child endangerment who knowingly exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury to the child.

(2) For purposes of subsection (c):

(A) "Knowingly" means the person knew, or should have known upon a reasonable inquiry, that abuse to or neglect of the child would occur which would result in physical injury to the child. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary parent or legal custodian of a child eight (8) years of age or less would exercise under all the circumstances as viewed from the defendant's standpoint; and

(B) "Parent or custodian" means the biological or adoptive parent or any person who has legal custody of the child.

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

SECTION 2. Tennessee Code Annotated, Section 39-15-402(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) A person commits the offense of aggravated child abuse, aggravated child neglect or aggravated child endangerment, who commits child abuse, as

defined in § 39-15-401(a); child neglect, as defined in § 39-15-401(b); or child endangerment, as defined in § 39-15-401(c) and:


(1) The act of abuse, neglect or endangerment results in serious bodily injury to the child;

(2) A deadly weapon, dangerous instrumentality or controlled substance is used to accomplish the act of abuse, neglect or endangerment; or

(3) The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 2, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 11th day of June 2009**

  
PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 428

HOUSE BILL NO. 716

**By Representatives Niceley, Fincher, Watson, Curtis Johnson, Dean, Rich, Jim Cobb, Evans, Carr, Hill, Todd, Faulkner, Lollar, Campfield, Bell, Kelsey, Swafford, Hensley, Bass, McCormick, Weaver**

Substituted for: Senate Bill No. 976

By Senators Beavers, Faulk, Crowe, Gresham

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 13 and Title 70, relative to firearms.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1311(b)(1), is amended by adding the following new subdivisions thereto:

(I) Persons possessing a handgun, who are authorized to carry such handgun pursuant to § 39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof, except as otherwise provided in subsection (d);

(J) Persons possessing a handgun, who are authorized to carry such handgun pursuant to § 39-17-1351, while within or on property designated by the federal government as a national park, forest, preserve, historic park, military park, trail, or recreation area, to the extent permitted by federal law.

SECTION 2. Tennessee Code Annotated, Section 39-17-1311, is amended by deleting subsection (d) in its entirety and substituting instead the following new subsections:

(d) Notwithstanding the provisions of subdivision (b)(1)(I), any municipality or county may prohibit, by resolution adopted by a majority vote of its legislative body, persons authorized to carry a handgun pursuant to § 39-17-1351, from possessing such handgun while within or on a public park that is owned or operated by a county, a municipality or instrumentality thereof. If a legislative body elects to prohibit the possession of handguns within a park, the prohibition shall apply to the entire park, notwithstanding the provisions of § 39-17-1311(b)(1)(I). If such area is jointly owned or operated by municipalities or counties, then a resolution adopted by a majority vote of all affected legislative bodies, voting individually, is necessary for such municipalities or counties to prohibit persons authorized to carry a handgun pursuant to § 39-17-1351, from possessing such handgun while within such park.

(e)

(1) Because signage prohibiting the possessing of firearms while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, or instrumentality thereof, and posted pursuant to § 39-17-1311, prior to July 1, 2009, remains necessary for visitors who are not authorized to carry a firearm pursuant to subsection (b), the department shall not replace or change any existing signs that prohibit firearms or erect any new signs at existing state areas relative to firearms. However, the department may replace or repair signs that have been damaged or are scheduled for replacement in accordance with the park's regular replacement schedule.

(2) If a municipality or county elects to prohibit persons authorized to carry a handgun pursuant to § 39-17-1351, from possessing such handgun while within or on a public park, it shall display in prominent locations the sign authorized by § 39-17-1311(c)(1), to give notice that handguns are not permitted in the park.

(f) A violation of subsection (a) is a Class A misdemeanor.

SECTION 3. Tennessee Code Annotated, Section 39-17-1314, is amended by deleting the first sentence of subsection (a) and substituting instead the following:

Except as provided in § 39-17-1311(d), which allows counties and municipalities to prohibit the possession of handguns while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by a county, a municipality or instrumentality thereof, no city, county, or metropolitan government shall occupy any part of the field of regulation of the transfer, ownership, possession or transportation of firearms, ammunition or components of firearms or combinations thereof; provided, that the provisions of this section shall be prospective only and shall not affect the validity of any ordinance or resolution lawfully enacted before April 8, 1986.

SECTION 4. Tennessee Code Annotated, Section 39-17-1359, is amended by adding the following language as a new, appropriately designated subsection:

(e) The provisions of this section shall not apply to the grounds of any public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof. The carrying of firearms in such areas shall be governed by § 39-17-1311.

SECTION 5.

(a) For purposes of permitting municipalities or counties to elect to prohibit the carrying of handguns in parks pursuant to § 39-17-1311(d), this act shall take effect upon becoming a law, the public welfare requiring it.

(b) For purposes of it being lawful for persons authorized to carry a handgun pursuant to § 39-17-1351, to carry in places owned or operated by the state or federal government that are designated in Section 1 of this act, this act shall take effect upon becoming a law, the public welfare requiring it.

(c) For purposes of it being lawful for persons authorized to carry a handgun pursuant to § 39-17-1351, to carry in places owned or operated by municipalities or counties that are designated in Section 1 of this act, this act shall take effect on September 1, 2009.

**PASSED: May 26, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 12th day of June 2009**



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 430

HOUSE BILL NO. 234

By Representatives Todd, Moore, Faulkner

Substituted for: Senate Bill No. 275

By Senator Ketron

AN ACT to amend Tennessee Code Annotated, Section 38-8-116, relative to law enforcement shooting ranges.

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

SECTION 1. Tennessee Code Annotated, Section 38-8-116, is amended by designating the existing language as subsection (a) and by adding the following new subsections:

(b) A law enforcement officer, acting as an individual and not as an employee, agent or on behalf of any governmental entity, who has retired in good standing, as determined solely by the chief law enforcement officer of the retired officer's law enforcement agency, may utilize any one of the following methods to meet the annual requirements to carry a firearm that has been shipped or transported in interstate or foreign commerce in the same manner and to the same extent as authorized for an active law enforcement officer to carry a firearm of the same type:

(1) Obtaining a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one (1) year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm;

(2) Meeting the standards established by the Tennessee peace officer standards and training commission for qualification for active law enforcement officers to carry a firearm of the same type by qualifying at and obtaining such an annual certification directly from the Tennessee peace officer standards and training commission; or

(3) Upon payment of any customary associated fees, utilize a private shooting range and engage the services of a certified firearms instructor to provide the training and verify that the retired law enforcement officer has met the standards established by the Tennessee peace officer standards and training commission for qualification for

active law enforcement officers to carry a firearm of the same type. The certified firearms instructor is authorized to issue a certificate indicating that the retired law enforcement officer has met the applicable standards.

(c) The Tennessee peace officer standards and training commission shall maintain a list of approved certified firearms instructors, which may include any instructor utilized by a person to receive a handgun carry permit under § 39-17-1351, that it considers qualified to train and verify that a retired law enforcement officer has met the standards established by the Tennessee peace officer standards and training commission for qualification for active law enforcement officers to carry a firearm of the same type.

(d) A retired officer may bring the certificate issued by the certified firearms instructor pursuant to subsection (b)(3) to the Tennessee peace officer standards and training commission. If the certificate was issued by an instructor who is on the peace officer standards and training commission's approved list, the commission shall issue the officer a certification that the officer has met the standards established by the Tennessee peace officer standards and training commission for qualification for active law enforcement officers to carry a firearm of the same type. A certificate so issued by the Tennessee peace officer standards and training commission shall be considered a "certification issued by the State" for purposes of 18 U.S.C. § 926C (d)(2)(B).

(e) The Tennessee peace officer standards and training commission is authorized to establish and charge a fee for issuing a certification under the provisions of this section.

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

**PASSED: June 3, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 12th day of June 2009**



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PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 431

HOUSE BILL NO. 390

By Representatives Fincher, Evans, Lollar, Roach, Ford, Dean, Todd, Rich, Eldridge, Moore, Montgomery, Fraley, Hensley, Niceley, McCormick

Substituted for: Senate Bill No. 578

By Senators Jackson, Crowe, Gresham

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, relative to the rights of handgun carry permit holders.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1307, is amended by adding the following new subsection (e):

(e) It is an exception to the application of this section that a person authorized to carry a handgun pursuant to § 39-17-1351, is transporting a rifle or shotgun in or on a privately-owned motor vehicle, and the rifle or shotgun does not have ammunition in the chamber. However, such a person does not violate this section by inserting ammunition into the chamber if the ammunition is inserted for purposes of justifiable self-defense pursuant to §§ 39-11-611 or 39-11-612.

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

**PASSED: May 26, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 12th day of June 2009**



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PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 432

HOUSE BILL NO. 583

**By Representatives Fincher, Dean, Rich, Todd, Faulkner, Harry Brooks, Brown, Sontany, Coleman, Weaver, Roach, Harrison, Watson, Haynes, Moore, Curt Cobb**

Substituted for: Senate Bill No. 1827

By Senator Kyle

AN ACT to amend Tennessee Code Annotated, Title 39, relative to criminal offenses.

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

SECTION 1. Tennessee Code Annotated Section 39-11-703 is amended by inserting the following as a new subsection (b) and renumbering the existing subsections accordingly:

(b) Any real property, including any right, title and interest in the whole of or any part of any lot or tract of land and any property used as an instrumentality in or used in furtherance of a violation of the following laws shall be subject to judicial forfeiture:

(1) a conviction for a violation of TCA § 39-17-417(i) or (j), or the commission of three (3) or more acts occurring on three (3) or more separate days within a sixty-day period, and each act results in a felony conviction under title 39, chapter 17, part 4; or

(2) the commission of three (3) or more acts occurring on three (3) or more separate days within a sixty-day period, and each act results in a conviction for promoting prostitution under title 39, chapter 13, part 5.

SECTION 2. Tennessee Code Annotated Section 39-11-704(a) is amended by deleting the code citation “§ 39-11-703” and substituting instead “§ 39-11-703(a).”

SECTION 3. Tennessee Code Annotated Section 39-11-704 is further amended by inserting the following as a new subsection (b) and renumbering the remaining subsections accordingly.

(b) No interest in real or personal property shall be forfeited under § 39-11-703(b), unless the owner or interest holder is convicted of a crime or crimes described in § 39-11-703(b). If the owner or interest holder is an entity other than a natural person, said property shall not be forfeited unless the entity’s officer, employee or agent is convicted of the aforesaid crime or crimes and the state shall also have the burden to establish beyond a reasonable doubt the following additional elements:

(1) The conviction is based on acts by the defendant in the course of and within the scope of the defendant's employment; and,

(2) The entity knew, or had reason to know from information in the entity's possession, other than through its convicted officer, employee or agent, of the criminal nature of the acts.

SECTION 4. Tennessee Code Annotated Section 39-11-712 is amended by designating the existing language as subsection (a) and by adding the following as new subsection:

(b)

(1) If the court orders a property interest in property owned as tenants in common forfeited under this section to be sold, whether by a public official or by a person having an interest in the property as in subdivision (a), the innocent spouse of a person whose property interest has been forfeited shall have the same right to such property interest as granted an innocent spouse in subdivision (b)(2) or (3). If there is no spouse or if such spouse does not elect to pursue the rights provided in subdivision (b)(2) or (3), then any other person or persons whose interest in such property has not been forfeited shall have the first right to purchase the forfeited interest for its fair market value prior to the court ordered sale. In order to exercise the first right to purchase, such person or persons must petition the appropriate circuit or criminal court at least thirty (30) days prior to the date the court ordered sale is to be conducted. If such person or persons do not purchase the forfeited property, the sale shall be conducted as provided by law. For the purposes of this subdivision (b)(1), "fair market value" is determined by taking an average of three (3) appraisals conducted by separate and qualified real estate appraisers selected by the court. Before any such purchase, the court shall approve the average of the appraisals for fair market value as reasonable.

(2)

(A) Notwithstanding the provisions of subdivision (b)(1) to the contrary, if a court orders property forfeited under this section pursuant to subdivision (a) and the property is held through tenancy by the entirety and one (1) spouse's interest is not forfeited, then such spouse shall have the first right to purchase the forfeited expectancy interest in the property.

(B) A spouse purchasing such forfeited property interest in such manner shall take the property subject to all bona fide liens on the property. In order to exercise the right of purchase, such spouse shall petition the court which ordered the forfeiture for such a purchase at fair market value at least fifteen (15) days prior to the court ordered sale.

(C) If such spouse does not purchase the forfeited expectancy interest, such spouse shall retain such spouse's interest as a tenant in common subject to all bona fide liens, and the forfeited expectancy interest shall be sold at public auction and the proceeds disbursed as provided for in § 39-11-713.

(D) If a party possessing a security interest in property being held by an innocent spouse institutes proceedings pursuant to its deed of trust or otherwise that results in the foreclosure and sale of such property, such innocent spouse shall be entitled to receive from the first proceeds of such sale an amount equal to an elective share as provided in § 31-4-101, subject to bona fide outstanding liens not satisfied by the remainder of the proceeds.

(E) If the innocent spouse predeceases the defendant spouse, if there are children of the innocent and guilty spouse, at least one (1) of which is eighteen (18) years of age or less on the date of such sale, and if the entity holding the right of expectancy is the state, then upon the sale of the property, one third (1/3) of the proceeds therefrom shall be allocated and divided equally among all the children, subject to all outstanding bona fide liens not satisfied by the remainder of the proceeds.

(3)

(A) Notwithstanding the provisions of subdivision (b)(1) to the contrary, if the property subject to forfeiture under this section is property titled solely in the name of a guilty spouse or titled in the name of the guilty spouse as tenants in common with any other person or persons, the innocent spouse may petition the court, at least thirty (30) days prior to the court ordered forfeiture sale, to have the court vest the ownership of the property in the couple as tenants by the entirety, and the innocent spouse shall have the same rights as provided in subdivision (b)(2). If the petition is timely filed it shall be granted.

(B) The filing of such petition shall act as a stay of any court ordered sale of such property and such stay shall remain in effect until disposition is made of the petition.

(C) If the innocent spouse does not petition the court to vest the property ownership in the couple as tenants by the entirety, then the property shall be forfeited and disposed of as provided by this section.

SECTION 5. This act shall take effect on July 1, 2009, the public welfare requiring it.

**PASSED: June 2, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 12th day of June 2009



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE  
PUBLIC CHAPTER NO. 433  
HOUSE BILL NO. 925

By Representatives Hawk, Shipley, Eldridge, Moore, Evans, Campfield,  
Towns

Substituted for: Senate Bill No. 1698

By Senator Southerland

AN ACT to amend Tennessee Code Annotated, Section 39-17-1351, relative to information required for obtaining a handgun carry permit.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1351(e), is amended by adding the following language after the first sentence of the subsection:

Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide such applicant's social security number. Any instructor of such course shall not withhold proof of the successful completion of a department approved handgun safety course solely on the fact the applicant did not disclose the applicant's social security number.

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

**PASSED: May 28, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 12th day of June 2009**



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PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 434

HOUSE BILL NO. 1160

By Representatives Fraley, Ulysses Jones, Shepard, Odom

Substituted for: Senate Bill No. 1184

By Senator Haynes

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 7 and Title 57, Chapter 3, relative to transportation of alcoholic beverages.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-703(a), is amended by deleting the language "does not have affixed to it a proper state of Tennessee revenue stamp" and substituting instead the language "has not had all taxes attributable to such intoxicating liquor paid".

SECTION 2. Tennessee Code Annotated, Section 39-17-703(b), is amended by deleting the language "that does not have a proper state of Tennessee revenue stamp affixed thereto" and substituting instead the language "which is not accompanied by a receipt or documentation from an entity holding a license issued under §§ 57-3-204, 57-3-203, or 57-3-207".

SECTION 3. Tennessee Code Annotated, Section 57-3-102, is amended by deleting the section in its entirety and substituting instead the following:

Section 57-3-102.

(a) It is lawful to manufacture, store, sell, distribute and purchase alcoholic beverages or wine subject to proper licensing, payment of taxes, compliance with the limitation, regulations and conditions provided in this chapter, in counties or municipalities of this state which, by local option elections so permit as hereinafter provided.

(b) It shall be lawful for an individual to transport up to five gallons (5 gals.) of alcoholic beverages or wine for personal or household use of such individual in counties or municipalities which have not permitted the sale of alcoholic beverages or wine by local option elections as hereinafter provided and amounts in excess of five (5 gals.) if accompanied by a receipt or other documentation demonstrating legal purchase or transport from an entity licensed under §§ 57-3-203, 57-3-204 or 57-3-207.

SECTION 4. Tennessee Code Annotated, Section 57-3-207(i), is amended by adding the following language as a new sentence at the end of the subsection:

Any person transporting such wine in excess of five gallons (5 gals.) shall have with such shipment a receipt or other documentation demonstrating that the wine was purchased from a winery as licensed herein.

SECTION 5. Tennessee Code Annotated, Section 57-3-304(b), is amended by deleting the language "three gallons (3 gals.)" and substituting instead the language "five gallons (5 gals.)".

SECTION 6. Tennessee Code Annotated, Section 57-3-401, is amended by deleting the section in its entirety and substituting instead the following:

Section 57-3-401.

(a)

(1) It is an offense for any person, firm or corporation, other than a common carrier or entity licensed under this title, to transport, either in person or through an agent, employee or independent contractor, untaxed alcoholic beverages or wine as defined in § 57-3-101 within, into, through or from the state of Tennessee in quantities in excess of five gallons (5 gals.). Except as provided in § 57-3-103(b) authorizing a person to store alcoholic beverages intended for a person's personal or social use, it is an offense for any person, firm, corporation or association to possess untaxed alcoholic beverages or wine in quantities in excess of five gallons (5 gals.). A violation of this subdivision (1) is a Class E felony.

(2) Any person, firm, corporation, or association transporting any alcoholic beverages or wine within or into this state shall bear the burden of proof that the taxes imposed by this title on alcoholic beverages or wine have been paid. A receipt or other documentation demonstrating legal purchase or transport from an entity licensed under §§ 57-3-203, 57-3-204 or 57-3-207 shall be adequate proof that such taxes have been paid.

(b)

(1) It is an offense for any person, firm, corporation or association to import, ship, deliver or cause to be imported, shipped or delivered into this state any alcoholic beverages upon which the tax imposed by this title has not been paid or where such transportation is not authorized under this title to an entity possessing a license issued under this title. A violation of this subdivision (1) is a Class E felony.

(2) Except as provided in § 57-3-207 for purchases made by an individual at a winery licensed pursuant to such section, and notwithstanding the prohibition in subdivision (b)(1), it shall be lawful for any individual to transport not more than five gallons (5

gals.) of alcoholic beverages or wine into or within this state for the personal or household use of that individual.

SECTION 7. Tennessee Code Annotated, Section 57-3-402(d), is amended by deleting the language “three gallons (3 gals.)” and substituting instead the language “five gallons (5 gals.)”.

SECTION 8. Tennessee Code Annotated, Section 57-3-403(a), is amended by deleting the language “three gallons (3 gals.)” and substituting instead the language “five gallons (5 gals.)”.

SECTION 9. Tennessee Code Annotated, Section 57-3-403(a), is further amended by inserting in the introductory sentence after the words “with this section” and before the colon “:” the language “or as otherwise permitted in this chapter” and in subdivision (a)(2) by inserting after the language “of this section,” the language “or as otherwise permitted in this chapter”.

SECTION 10. Tennessee Code Annotated, Section 57-3-411(b), is amended by deleting the language “one gallon (1 gal.)” and substituting instead the language “five gallons (5 gals.)”.

SECTION 11. Tennessee Code Annotated, Section 57-9-201(a), is amended by adding the language “in excess of five (5) gallons” after the language “alcoholic beverages of more than five percent (5%) alcohol”; and by deleting the language “purchased or obtained from a licensed Tennessee retailer or wholesaler” and by substituting instead the language “purchased or obtained from an entity holding a license issued under §§ 57-3-204, 57-3-203, or 57-3-207”.

SECTION 12. 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 13. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: May 26, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 12th day of June 2009



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 435

HOUSE BILL NO. 1796

**By Representatives West, Fincher, Evans, Carr, Bell, Eldridge, Todd, Faulkner, Matheny, Rich, Hensley, Hill, Campfield, Weaver, Dean, Hawk, Watson, Shipley, Fraley, Ty Cobb, Curtis Johnson and Mr. Speaker Williams**

Substituted for: Senate Bill No. 1610

By Senators Beavers, Jackson, Gresham, Norris and Mr. Speaker Ramsey

AN ACT to amend Tennessee Code Annotated, Title 4, relative to exempting from regulation under the commerce clause of the Constitution of the United States a firearm, firearm accessory, or ammunition manufactured and retained in Tennessee.

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

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding Sections 2 through 7 of this act as a new chapter thereto.

SECTION 2. This chapter shall be known and may be cited as the "Tennessee Firearms Freedom Act".

SECTION 3. The general assembly declares that the authority for this act is the following:

(1) The tenth amendment to the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Tennessee certain powers as they were understood at the time that Tennessee was admitted to statehood. The guarantee of those powers is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States;

(2) The ninth amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Tennessee certain rights as they were understood at the time that Tennessee was admitted to statehood. The guarantee of those rights is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States.

(3) The regulation of intrastate commerce is vested in the states under the ninth and tenth amendments to the United States Constitution, particularly if not expressly preempted by federal law. Congress has not expressly preempted

state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearms accessories, and ammunition;

(4) The second amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Tennessee was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States; and

(5) The Tennessee Constitution clearly secures to Tennessee citizens, and prohibits government interference with, the right of individual Tennessee citizens to keep and bear arms.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination;

(2) "Generic and insignificant parts" includes but is not limited to springs, screws, nuts, and pins; and

(3) "Manufactured" means creating a firearm, a firearm accessory, or ammunition from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

SECTION 5. A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Tennessee and that remains within the borders of Tennessee is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory, or ammunition that is manufactured in Tennessee from basic materials and that can be manufactured without the inclusion of any significant parts imported into this state. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into Tennessee and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Tennessee does not subject the firearm, firearm accessory, or ammunition to federal regulation. It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were actually firearms, firearms accessories, or ammunition. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories, and ammunition made in Tennessee from those materials. Firearms accessories that are imported into Tennessee from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation

under interstate commerce because they are attached to or used in conjunction with a firearm in Tennessee.

SECTION 6. Section 5 of this act shall not apply to:

- (1) A firearm that cannot be carried and used by one (1) person;
- (2) A firearm that has a bore diameter greater than one and one half (1 ½) inches and that uses smokeless powder, not black powder, as a propellant;
- (3) Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or
- (4) A firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

SECTION 7. A firearm manufactured or sold in Tennessee under this chapter must have the words "Made in Tennessee" clearly stamped on a central metallic part, such as the receiver or frame.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: June 3, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this day of 2009**

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 1796 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.



STATE OF TENNESSEE

PHIL BREDESEN  
GOVERNOR

12 June 2009

The Honorable Kent Williams  
Speaker of the House  
19 Legislative Plaza  
Nashville, TN 37243

RE: House Bill 1796

Dear Speaker Williams:

I intend to allow House Bill 1796 to become law without signature.

This bill is not about firearms. It represents a fringe constitutional theory that I believe will be quickly dispensed with by the federal courts.

The Tennessee General Assembly lacks any Constitutional authority to limit the power and authority of the United States government in this manner. Enactment of HB 1796 will almost certainly result in a swift legal challenge of the law by the federal government, which will ultimately result in the law being found unconstitutional. In fact, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives has already indicated their intent to continue to fully enforce the relevant federal laws, regardless of the enactment of HB 1796. Unfortunately, in light of the clear constitutional deficiencies of this bill, its enactment will also no doubt result in unnecessary and potentially expensive confusion for firearm manufacturers, importers and dealers, almost all of whom seek to conduct their business in a law-abiding manner.

While I share the General Assembly's commitment to federalism, this legislation contravenes our Constitution. I am allowing it to become law so that it can quickly be dealt with in the federal courts.

Respectfully,

A handwritten signature in black ink, appearing to read "Phil Bredesen".

Phil Bredesen

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 439

HOUSE BILL NO. 588

By Representative Coleman

Substituted for: Senate Bill No. 783

By Senator Overbey

AN ACT to amend Tennessee Code Annotated, Title 40, relative to criminal offenses.

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

SECTION 1. Tennessee Code Annotated, Section 40-18-110, is amended by adding the following as new subsections:

(f) An offense is a lesser included offense if:

(1) All of its statutory elements are included within the statutory elements of the offense charged;

(2) The offense is facilitation of the offense charged or of an offense that otherwise meets the definition of lesser included offense in subdivision (f)(1);

(3) The offense is an attempt to commit the offense charged or an offense that otherwise meets the definition of lesser included offense in subdivision (f)(1); or

(4) The offense is solicitation to commit the offense charged or an offense that otherwise meets the definition of lesser included offense in subdivision (f)(1).

(g)

(1) Second degree murder is a lesser included offense of first degree murder as defined in § 39-13-202.

(2) Voluntary manslaughter is a lesser included offense of premeditated first degree murder and second degree murder.

(3) Aggravated sexual battery is a lesser included offense of aggravated rape.

(4) Sexual battery and sexual battery by an authority figure are lesser included offenses of rape and aggravated rape.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 9, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 23rd day of June 2009**

  
PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE  
PUBLIC CHAPTER NO. 440  
HOUSE BILL NO. 591

By Representatives Coleman, Dean, Montgomery, Harry Brooks

Substituted for: Senate Bill No. 782

By Senators Overbey, Berke

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 40, relative to criminal offenses.

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

SECTION 1. Tennessee Code Annotated, Section 40-6-303(19), is amended by placing a period after the language "service in providing or operating those facilities for the transmission of communications" and deleting the remaining language.

SECTION 2. Tennessee Code Annotated, Section 40-6-303(7), is amended by deleting subdivision (A) and designating the remaining subdivisions accordingly.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 8, 2009**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 23rd day of June 2009**



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PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 447

HOUSE BILL NO. 1354

**By Representatives Carr, Evans, Kevin Brooks, Shipley, Campfield,  
Hensley, Rich, Dean, Hill, Harry Brooks, Haynes, Hawk**

Substituted for: Senate Bill No. 1310

By Senators Tracy, Gresham, Johnson

AN ACT to amend Tennessee Code Annotated, Title 7, relative to local government cooperation with federal officials regarding immigration status of persons in this state.

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

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding the following as a new chapter 68:

Section 7-68-101.

(a) The general assembly hereby finds, determines and declares that:

(1) Because the matters contained in this chapter have important statewide ramifications for compliance with and enforcement of federal immigration laws, and for the welfare of all citizens in this state, these matters are of statewide concern.

(2) Allowing illegal immigrants to reside within Tennessee undermines federal immigration laws and state laws allocating available resources.

(3) The state attorney general and reporter and all appropriate state and local law enforcement agencies are to vigorously pursue all federal moneys to which the state may be entitled for the reimbursement of moneys spent to enforce federal immigration laws.

Section 7-68-102.

As used in this chapter, unless the context otherwise requires:

(1) "Local governmental entity" means a governing body, board, commission, committee or department of a municipality or county.

(2) "Official" means a member of a governing body, board, commission or committee of a municipality or county, or the head of any department of a municipality or county.

Section 7-68-103.

(a) A local governmental entity or official shall not adopt any ordinance or written policy that expressly prohibits a local governmental entity, official, or employee from complying with applicable federal law pertaining to persons that reside within the state illegally.

(b) An official shall not materially interfere with the ability of a local governmental entity, official or employee of a municipality or a county to comply with applicable federal law pertaining to persons that reside within the state illegally.

Section 7-68-104.

(a) A person residing in a municipality or county who believes a local governmental entity or official has violated the provisions of Section 7-68-103, may file a complaint in chancery court in such person's county of residence.

(b) The person filing the complaint shall have the burden of proving by a preponderance of evidence that a violation of Section 7-68-103, has occurred.

(c) If the court finds the local governmental entity or official in violation of Section 7-68-103, the court may issue a writ of mandamus against the local governmental entity ordering it to comply with Section 7-68-103, enjoin the official from further interference or take such other action to ensure compliance as is within the jurisdiction of the court.

(d) A local governmental entity shall have no less than ninety (90) days nor more than one hundred twenty (120) days from the date of the court's order to comply with such order. If, after one hundred twenty (120) days, the local governmental entity has not complied with the court's order, the court may take whatever action necessary to enforce compliance.

SECTION 2. For the purposes of local governmental entity amending or repealing existing ordinances or policies, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on September 1, 2009, the public welfare requiring it.

**PASSED: June 8, 2009**



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 23rd day of June 2009



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 452

SENATE BILL NO. 104

By Berke, Burks, Ford, Harper

Substituted for: House Bill No. 610

By Stewart, Hardaway, Shaw

AN ACT to amend Tennessee Code Annotated, Title 41, relative to a society plan for incarcerated prisoners.

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

SECTION 1. Tennessee Code Annotated, Title 41, Chapter 1, Part 4, is amended by adding the following language as a new, appropriately designated section:

41-1-4\_\_\_. The trial courts, the board of probation and parole and the Department of Correction shall coordinate efforts to prepare offenders for reentry into society. To that end, it is the intent of the general assembly that validated risks/needs assessment instruments shall be used to develop offender reentry plans.

(1) In preparing presentence reports in accordance with § 40-35-207, the board of probation and parole shall include information identifying the defendant's risks and needs as determined through the use of a validated assessment instrument, along with recommended treatment programs to address such risks and needs and enhance the defendant's opportunity for successful reentry into the community.

(2) The Department of Correction or the board of probation and parole, as appropriate, shall develop an individual treatment/supervision plan for each offender in its custody or under its supervision to enhance the offender's opportunity for successful reentry into the community. The plan shall be developed using a validated instrument to evaluate the individual risks and needs of the offender.

SECTION 2. Tennessee Code Annotated, Title 41, Chapter 1, Part 4, is further amended by adding the following language as a new, appropriately designated section:

41-1-4\_\_.

(a) When appropriate to better manage and assist probationers under their supervision, probation and parole officers employed by the board of probation and parole shall have the authority to impose intermediate administrative sanctions, including, but not limited to, mandated participation in treatment programs designed to address an

offender's risks and needs. Such intermediate administrative sanctions shall be imposed in accordance with the treatment/supervision plan developed using a validated instrument to evaluate the individual risks and needs of the offender.

(b) Trial courts may revoke the authority granted to probation and parole officers in subsection (a), by entering an order to such effect, in all cases for all defendants, in certain, specified cases or for particular defendants.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.

**PASSED: June 1, 2009**



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RON RAMSEY  
SPEAKER OF THE SENATE



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KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 23rd day of June 2009**



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PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 455

SENATE BILL NO. 314

By Black, Harper, Marrero, Burks, Finney

Substituted for: House Bill No. 1225

By Harwell, Sontany, Pruitt, Gilmore, Sherry Jones, Maggart, Richardson,  
Camper, Fincher, Swafford, Hardaway, Stewart

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6; Title 39, Chapter 13, Part 1 and Title 39, Chapter 17, Part 13, relative to domestic abuse, stalking, sexual assault and firearms.

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

SECTION 1. Tennessee Code Annotated, Section 36-3-604, is amended by deleting the section in its entirety, including all forms, and substituting the following:

(a)(1) The office of the clerk of court shall provide forms that may be necessary to seek a protection order under this part. These forms shall be limited to use in causes filed under this part and they shall be made available to all who request assistance in filing a petition. The clerk may obtain the most current forms by printing them from the Web site of the administrative office of the courts.

(2) The petitioner is not limited to the use of these forms and may present to the court any legally sufficient petition in whatever form. The office of the clerk shall also assist a person who is not represented by counsel by filling in the name of the court on the petition, by indicating where the petitioner's name shall be filled in, by reading through the petition form with the petitioner, and by rendering any other such assistance as is necessary for the filing of the petition. All such petitions that are filed pro se shall be liberally construed procedurally in favor of the petitioner.

(b) The administrative office of the courts, in consultation with the domestic violence coordinating council, shall develop a "petition for orders of protection" form, an "amended order of protection" form, an "ex parte order of protection" form and such other forms as are found to be necessary and advisable. These forms shall be revised as the laws relative to orders of protection and ex parte orders of protection are amended by the general assembly. To the extent possible, the forms shall be uniform with those promulgated by surrounding states so that Tennessee forms may be afforded full faith and credit.

(c) The administrative office of the courts shall revise the petition for an order of protection form to fully advise the respondent of the provisions of this act in language substantially similar to the following:

(1) If the order of protection is granted in a manner that fully complies with the provisions of 18 U.S.C. § 922(g)(8), the respondent is required to terminate physical possession by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, of all firearms that the respondent possesses within forty-eight (48) hours of the granting of the order;

(2) It is a criminal offense for a person subject to an order of protection which fully complies with the provisions of 18 U.S.C. § 922(g)(8), to possess a firearm while that order is in effect; and

(3) The issuance of an order of protection may terminate or, at least, suspend the individual's right to purchase or possess a firearm.

SECTION 2. Tennessee Code Annotated, Section 36-3-606, is amended by adding the following new subsection (g):

(g) An order of protection issued pursuant to this part that fully complies with the provisions of 18 U.S.C. § 922(g)(8), shall contain the disclosures set out in § 36-3-625(a):

SECTION 3. Tennessee Code Annotated, Title 36, Chapter 3, Part 6, is amended by adding the following new section:

Section 36-3-625.

(a) Upon issuance of an order of protection that fully complies with the provisions of 18 U.S.C. § 922(g)(8), the order shall include on its face the following disclosures:

(1) That the respondent is required to dispossess himself or herself by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, of all firearms the respondent possesses within forty-eight (48) hours of the issuance of the order;

(2) That the respondent is prohibited from possessing a firearm for so long as the order of protection or any successive order of protection is in effect, and may reassume possession of the dispossessed firearm at such time as the order expires or is otherwise no longer in effect; and

(3) Notice of the penalty for any violation of this section and § 39-17-1307(e).

(b) The court shall then order and instruct the respondent:

(1) To terminate his or her physical possession of the firearms in the respondent's possession by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, within forty-eight (48) hours;

(2) To complete and return the "Affidavit of Firearm Dispossession" form created pursuant to subsection (e), which the court may provide the respondent or direct the respondent to the administrative office of the courts' Web site; and

(3) That if he or she possesses firearms as business inventory or that are registered under the National Firearms Act, there are additional statutory provisions which may apply and shall include these additional provisions in the content of the order.

(c) Upon issuance of the order of protection, its provisions and date and time of issuance shall be transmitted to the sheriff and all local law enforcement agencies in the county where the respondent resides.

(d) When the respondent is lawfully dispossessed of firearms as required by this section, the respondent shall complete an "Affidavit of Firearms Dispossession" form created pursuant to subsection (e) and return it to the court issuing the order of protection.

(e) The "Affidavit of Firearms Dispossession" form shall be developed by the Domestic Violence State Coordinating Council, in consultation with the administrative office of the courts. Upon completion, the form shall be posted on the Web page of the administrative office of the courts where it can be copied by respondents or provided to them by the court or the court clerk.

(f) In determining what a lawful means of dispossession is:

(1) If the dispossession, including, but not limited to, the transfer of weapons registered under the National Firearms Act that requires the approval of any state or federal agency prior to the transfer of such firearm, the respondent may comply with the dispossession requirement by having the firearm or firearms placed into a safe or similar container which is securely locked and to which the respondent does not have the combination, keys or other means of normal access.

(2) If the respondent is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual "possesses" firearms that constitute the business inventory under such federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the Bureau of Alcohol, Tobacco, Firearms and Explosives. The order of protection shall not require the surrender or transfer of any such inventory if there are one or more individuals who are

responsible parties under the federal license who are not the respondent subject to the order of protection.

(g) A firearm subject to this section shall not be forfeited as provided in § 39-17-1317, unless the possession of the firearm prior to the entry of the order of protection constituted an independent crime of which the respondent has been convicted or the firearms are abandoned by the respondent.

(h)(1) It is an offense for a person subject to an order of protection that fully complies with the provisions of 18 U.S.C. § 922(g)(8), to knowingly fail to surrender or transfer all firearms the respondent possesses as required by this section.

(2) A violation of subdivision (h)(1) is a Class A misdemeanor and each violation shall constitute a separate offense.

(3) If the violation of subdivision (h)(1) also constitutes a violation of § 39-13-113(h) or § 39-17-1307(e), the respondent may be charged and convicted under any or all such sections.

SECTION 4. Tennessee Code Annotated, Section 39-13-111, is amended by adding the following new subdivision (c)(3):

(3) A person convicted of a violation of this section shall be required to terminate, upon conviction, possession of all firearms that the person possesses as required by § 36-3-625.

SECTION 5. Tennessee Code Annotated, Section 39-13-113, is amended by adding the following as a new subsection (h):

(h)(1) It is an offense and a violation of an order of protection for a person to knowingly possess a firearm while an order of protection that fully complies with the provisions of 18 U.S.C. § 922(g)(8), is entered against that person and in effect, or any successive order of protection containing the language of § 36-3-606(g) and that fully complies with the provisions of 18 U.S.C. § 922(g)(8), is entered against that person and in effect.

(2) For purposes of this subsection, the determination of whether a person "possesses" firearms shall be based upon the factors set out in § 36-3-625(f) if the firearms constitute the business inventory or are subject to the National Firearms Act.

(3) A violation of this subsection (h) is a Class A misdemeanor and each violation constitutes a separate offense.

(4) If a violation of subsection (h) also constitutes a violation of § 36-3-625(h), or § 39-17-1307(e), the respondent may be charged and convicted under any or all such sections.

SECTION 6. Tennessee Code Annotated, Section 39-17-1307, is amended by adding the following new subsection (e):

(e)(1) A person commits an offense who possesses a firearm, as defined in § 39-11-106(a), and:

(A) Has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921, and is still subject to the disabilities of such a conviction;

(B) Is, at the time of the possession, subject to an order of protection that fully complies with the provisions of 18 U.S.C. § 922(g)(8); or

(C) Is prohibited from possessing a firearm under any other provision of state or federal law.

(2) If the person is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual "possesses" firearms that constitute the business inventory under such federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(3) For purposes of this section, a person does not possess a firearm, including, but not limited to, firearms registered under the National Firearms Act, if the firearm is in a safe or similar container which is securely locked and to which the respondent does not have the combination, keys or other means of normal access.

(4) A violation of subdivision (e)(1) is a Class A misdemeanor and each violation constitutes a separate offense.

(5) If a violation of subdivision (e)(1) also constitutes a violation of § 36-3-625(h) or § 39-13-113(h), the respondent may be charged and convicted under any or all such sections.

SECTION 7. Tennessee Code Annotated, Section 39-17-1352, is amended by adding the following new subdivisions to subsection (a):

( ) Has been convicted of domestic assault as defined in § 39-13-111, or any other misdemeanor crime of domestic violence and is still subject to the disabilities of such a conviction;

( ) Is subject to a current order of protection that fully complies with the provisions of 18 U.S.C. § 922(g)(8).

SECTION 8. This act shall take effect July 1, 2009, the public welfare requiring it.

PASSED: June 2, 2009



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RON RAMSEY  
SPEAKER OF THE SENATE



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KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 23rd day of June 2009



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PHIL BREDESEN, GOVERNOR

**STATE OF TENNESSEE**

**PUBLIC CHAPTER NO. 465**

**SENATE BILL NO. 651**

**By Finney**

Substituted for: House Bill No. 792

By Bass, Eldridge, Shaw

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 35, relative to private protective services.

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

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 35, is amended by adding the following language as a new, appropriately designated section:

§ 62-35-1\_\_.

(a)(1) Each licensee shall submit to the local law enforcement agency of any jurisdiction in which such licensee provides services for a restaurant, as defined in § 57-4-102, licensed to serve alcoholic beverages, wine or beer for consumption on the premises, a form promulgated by the commissioner notifying the local law enforcement agency that the licensee provides services within the agency's jurisdiction. Such form shall include the name, license number, and armed or unarmed status of each security officer/guard providing services for compensation to the licensee and the name and location of the licensee's clients within the agency's jurisdiction.

(2) Any licensee providing services for a restaurant, as defined in § 57-4-102, licensed to serve alcoholic beverages, wine or beer for consumption on the premises, upon the effective date of this act shall submit the form required by this section to any applicable agency within fifteen (15) days of such date. Otherwise, the licensee shall submit such form within fifteen (15) days of the date the licensee commences offering services in an agency's jurisdiction. The licensee shall ensure that the information submitted to the local law enforcement agency is kept current and shall notify the local law enforcement agency in writing of the substance of any change within fifteen (15) days of the date of the event necessitating such change.

(b) Any local law enforcement agency that has knowledge of a violation of this section or any other provision of this chapter shall notify the commissioner. The commissioner shall communicate in writing to the

local law enforcement agency any action taken in response to such notification.

(c) For purposes of this section, "local law enforcement agency" means:

(1) Within the territory of a municipality, the municipal police department;

(2) Within the territory of a county having a metropolitan form of government, the metropolitan police department; or

(3) Within the unincorporated territory of a county, the sheriff's office.

SECTION 2. The Commissioner of Commerce and Insurance is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 3. For purposes of the promulgation of rules and publication of forms, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2010, the public welfare requiring it.

**PASSED: June 1, 2009**



RON RAMSEY  
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 23rd day of June 2009**



PHIL BREDESEN, GOVERNOR

STATE OF TENNESSEE  
PUBLIC CHAPTER NO. 480  
SENATE BILL NO. 1221

By Bunch

Substituted for: House Bill No. 1209

By Watson, Kevin Brooks

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, relative to distress warrants.

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

SECTION 1. Tennessee Code Annotated, § 67-4-215, is amended by inserting the following language as a new subsection (e):

(e) A distress warrant issued by a municipal tax collector may be executed within the boundaries of a municipality by the chief of police or a police officer of the municipality, who is granted the authority expressed in this section to serve such warrants.

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

**PASSED: June 2, 2009**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 23rd day of June 2009**



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PHIL BREDESEN, GOVERNOR