

Legislative Update

113th General Assembly

Tennessee Judicial Conference

Knoxville, June 14, 2022

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Thank you
TJC Legislative Committee!



Part I Budget

04/19/23

TN
HOUSE



113th GENERAL ASSEMBLY - 25th LEGISLATIVE DAY HB1545



New Appropriations

Salary mkt adjustments for Judicial branch staff	\$4,881,000
Judges COLA	\$2,383,700
3 New Judges	\$1,060,100
Statewide e-filing	\$75,000,000
Senior Judge Program	\$285,000
Court Security Grants	\$4,000,000
AOC IT Staff	\$388,100
Raise for Judicial Assistants	\$1,846,000

Other court-related items not assigned to the AOC:

- Raise for Non-TEAM Act Agencies TBD
- Old Library & Archives \$7,300,000



Part II

AOC / Court Bills



3 New Trial Judges



PC396 (Roberts/Johnson, C.)

13th Judicial District

- 1 Criminal Court, designated as Part III
- Clay, Pickett, Overton, Putnam, Dekalb, While, Cumberland

19th Judicial District

- 1 Circuit Court, designated as Part VI
- Montgomery, Robertson

22nd Judicial District

- 1 Circuit Court, designated as Division V
- Maury, Wayne, Lawrence, Giles



**Effective date: May 11, 2023 (to start 9-1-23)*

Rent-a-Judge Repeal Bill

PC118 (Stevens/Stevens)

- Repeal of TCA § 17-2-121 that allow parties in certain civil cases to agree to employ a retired or former judge to hear the case and provide for the process and manner of trial.
- TCA § 17-2-121 is not needed and conflicts with current Supreme Court policies and procedures for interchange and designation of judges.



**Effective date: April 4, 2023*



Death Row Intellectual Disability Determination - Payment

PC255 (Gardenhire/Hawk)

Clarifies a provision that was recently added to the Code. In 2022, PC 399 changed the legal definition of intellectual disability for the purposes of capital punishment. The language allows a defendant who was sentenced to death prior to May 11, 2021 to petition the court for a determination of whether he or she is intellectually disabled. The language in this bill simply clarifies that this determination of intellectual disability will be paid for by the AOC from the indigent fund.

**Effective date: April 28, 2023*



Information included in parenting plans



PC124 (Yarbro/Beck)

- Addresses unintended consequences from 2019's PC151, which limited the information of minors that may be included in court filings.
- This bill exempts parenting plans from the 2019 law so that name and DOB can be included in parenting plan

STATE OF TENNESSEE	COURT (Must be completed)	COUNTY (Must be completed)
PERMANENT PARENTING PLAN ORDER		FILE No. _____ (Must be completed)
<input type="checkbox"/> PROPOSED <input type="checkbox"/> AGREED <input type="checkbox"/> ORDERED BY THE COURT		DIVISION _____
PLAINTIFF (Name: First, Middle, Last)		DEFENDANT (Name: First, Middle, Last)
<input type="checkbox"/> Mother <input type="checkbox"/> Father		<input type="checkbox"/> Mother <input type="checkbox"/> Father

The mother and father will behave with each other and each child so as to provide a loving, stable, consistent and nurturing relationship with the child even though they are divorced. They will not speak badly of each other or the members of the family of the other parent. They will encourage each child to continue to love the other parent and be comfortable in both families.

This plan is a new plan.
 modifies an existing Parenting Plan dated _____.
 modifies an existing Order dated _____.

Child's Name	Date of Birth

I. RESIDENTIAL PARENTING SCHEDULE

A. RESIDENTIAL TIME WITH EACH PARENT

The Parenting Plan must designate the parent with whom the child is scheduled to reside a majority of the time as the Primary Residential Parent of the child(ren). The designation shall not affect either parent's rights and responsibilities under the Parenting Plan.

The Primary Residential Parent is
 Mother
 Father
 Joint Primary Residential Parents (only if by agreement)
Child must reside an equal amount of time with both parents.
 Waived by Mother and Father (only if by agreement)
Child must reside an equal amount of time with both parents.

Under the schedule set forth below, each parent will spend the following number of days with the children:
Mother _____ days Father _____ days

**Effective date: April 4, 2023*



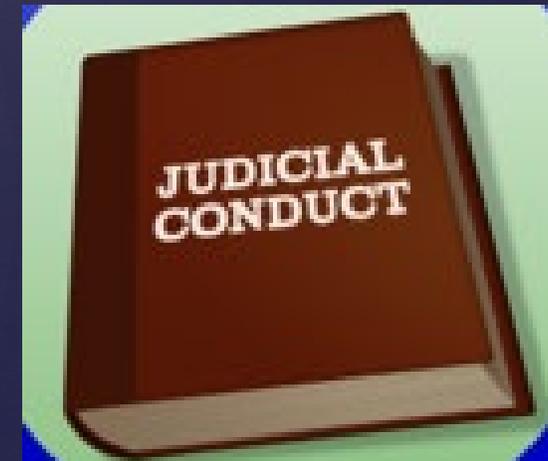
Part III Judiciary

BJC – hearing results and appeal process

PC273 (Oliver/Beck)

TCA § 17-5-308 – new subsection (d): The board shall notify the complainant of the results of the **HEARING**, by mailing a copy of the hearing panel’s findings and judgment and a copy of the board’s formal finding of fact and opinion and any sanction imposed.

TCA § 17-5-309 – new subsection (a): The aggrieved judge or the complainant may appeal to the supreme court, pursuant to Rule 11 of the TRAP, within 14 days of the date of entry of the judgment of the board following the conclusion of the **HEARING** held pursuant to § 17-5-307. The record on appeal must conform to the requirements of Rule 24 of the TRAP.



**Effective date: April 8, 2023*

Judicial Elections

HJR13 - Lamberth

Proposed change to Article VII,
Section 5 of Tennessee
Constitution

To change election date for
judges to November

Still needs to be passed by the
next GA to go on the ballot



**Effective date: April 17, 2023*



Campaign Finance Laws

PC108 (Briggs/Whitson)

Codifying current procedures for:

- reporting campaign finance data;
- treatment and maintenance of campaign funds;
- addressing sworn complaints; and
- the annual report to the registry.

“There are no new regulations and nothing new that is substantial in this bill. These changes are procedural – to simplify the code and to make certain procedures match others in current use” –Senator Briggs



**Effective date:*

- Parts on April 4, 2023

- Parts on January 1, 2024

New sign required at polls

PC473 (Pody/Rudd)



On primary election days, this sign must be posted at each polling place:

It's the Law! Please Read...

It is a violation of Tennessee Code Annotated, Section 2-7-115(b), and punishable as a crime under Tennessee Code Annotated, Section 2-19-102 or Section 2-19-107, if a person votes in a political party's primary without being a bona fide member of or affiliated with that political party, or to declare allegiance to that party without the intent to affiliate with that party.

**Effective date: May 17, 2023*

Abrial's Law – Judicial Education Requirements

PC266 (Massey/Alexander)

All judges involved in child custody proceedings shall complete at least 2 hours of training or continuing education in domestic violence or child abuse per year or 10 hours per 5 years.

Lists topics that may be covered

In person or virtual in conjunction with the annual meetings of the judicial conferences

**Effective date: January 1, 2024*



Rejection of *Harding Academy v. Metro*

PC453 (Rose/Ragan)

General Assembly rejects the Pending Ordinance Doctrine described in *Harding Academy v. Metro*, 222 S.W.3d 359 (Tenn. 2007)

“... Property owners should expect that the merits of a permit application will be judged on the law in effect at the time of the application. The interests of property owners to use their property as they see fit and free from the threat of interference from potential local regulation outweighs the need of a local gov't entity to work out the details of a potential zoning change free from possible violations.” – PC453



IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE
February 2, 2007 Session

**HARDING ACADEMY v. THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Appeal by Permission from the Court of Appeals
Chancery Court for Davidson County
No. 03-1717-II Carol L. McCoy, Chancellor

No. M2004-02118-SC-R11-CV - Filed on May 14, 2007

The plaintiff applied for nine demolition permits, which the city initially issued. Two days later, however, the city revoked the permits based upon the “pending ordinance doctrine.” At the time the plaintiff applied for the demolition permits, an application proposing a zoning change had been filed with the city’s planning commission, but no action regarding the application had taken place other than the scheduling of a hearing before the city’s historic zoning commission to discuss the proposal

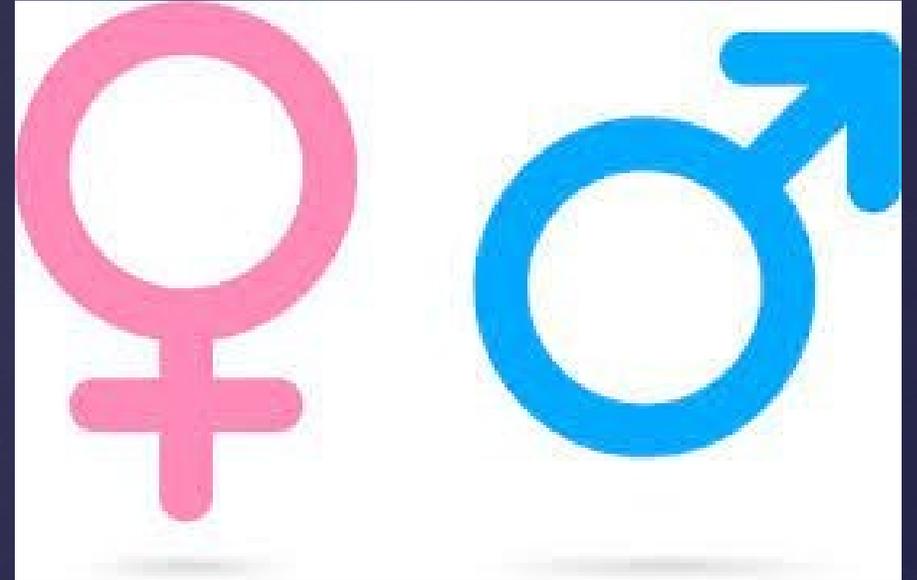
**Effective date: July 1, 2023*

Definition of sex

PC486 (Roberts/Bulso)



For the purposes of the code, “sex” means a person’s immutable biological sex as determined by anatomy and genetics existing at the time of birth.



Effective date: July 1, 2023

Victim Advocate Confidentiality

PC282 (Campbell/Freeman)

Prohibits disclosure of certain info by an advocate in regard to a victim of domestic violence, sexual assault, stalking, or human trafficking in a judicial, legislative, or administrative proceeding unless the victim gives express written consent.

**Effective date: July 1, 2023*



Juneteenth

PC337 (Johnson/Lamberth)



June 19 is now a
state holiday
beginning June 19,
2023



State of Tennessee

PUBLIC CHAPTER NO. 337

SENATE BILL NO. 269

By Johnson, Akbari, Kyle, Yarbrow, Lamar, Campbell, Oliver

Substituted for: House Bill No. 317

By Lamberth, Cochran, Camper, Jernigan, Hakeem, Hardaway, Love, McKenzie, Harris, Chism,
Towns, Shaw, Miller, Glynn, Dixie, Freeman, Powell, Whitson

AN ACT to amend Tennessee Code Annotated, Title 15, relative to Juneteenth.

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

SECTION 1. Tennessee Code Annotated, Section 15-1-101, is amended by adding "June 19, known as "Juneteenth";" before "July 4;".

SECTION 2. Tennessee Code Annotated, Section 15-2-137, is amended by deleting the section.

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

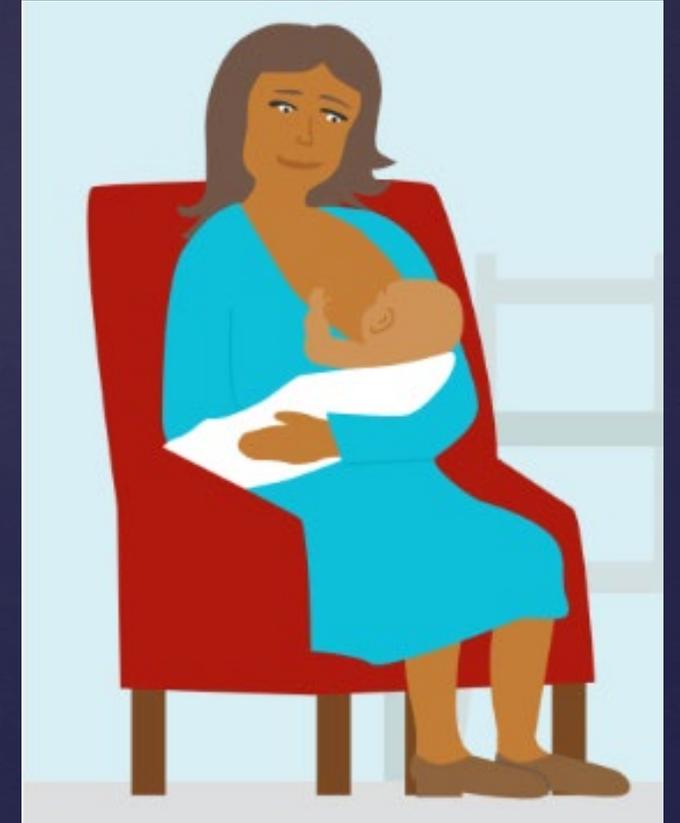
**Effective date: May 5, 2023*

Paid Parental Leave, etc.



PC216 (Johnson/Lamberth)

- 6 weeks of 100% paid leave for birth or placement for adoption for state employees
- Doesn't have to be consecutive, but no more than six weeks per year regardless of adoptions
- Non-executive branch agencies shall establish policies for implementing this section
- Also makes changes to how we calculate and award sick and vacation time depending on how long you've been employed by the state.
- Changes definition of voluntary benefits.



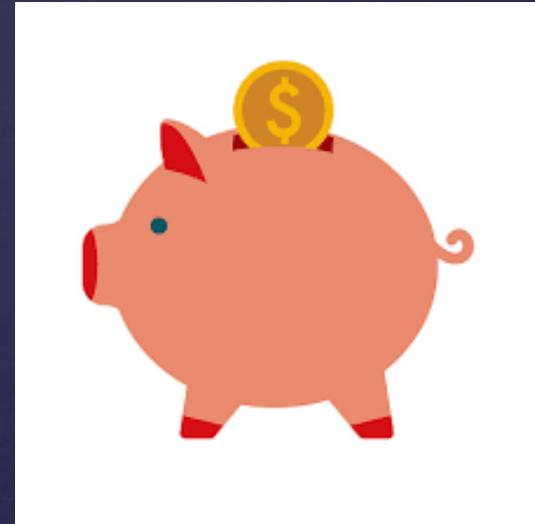
**Effective date: July 1, 2023
(for most parts)*

401(k) Match

PC420 (Johnson/Lamberth)

Increases the 401(k) match for any state employee contribution up the \$100 per month (instead of \$50 per month) for fiscal year '23-'24.

**Effective date: July 1, 2023*



Part IV

Civil Law



Transgender Healthcare

PC1 (Johnson/Lamberth)

Ban on certain types of transgender healthcare for minors

Creates a private cause of action for the parent or minor against the healthcare provider

Creates a cause of action for the state Attorney General against healthcare provider (jurisdiction in chancery or circuit court in Williamson County or circuit court in the county where the violation occurred).

See: L.W. v. Skremetti (on 4/26/23 the DOJ filed a motion for preliminary injunction in middle district of Tennessee).

**Effective date: July 1, 2023*



Revised Uniform Arbitration Act

PC319 (Stevens/Todd)



Replaces current arbitration law and 1) allows parties to agree to arbitrate before an actual dispute arises; and 2) provides basic procedures for conducting an arbitration.

Default Act; Can Be Varied By Contract: It provides that it is a default act, allowing many (but not all) of its provisions to be waived/varied by contract.

Provisional Remedies: It allows courts to order provisional remedies before an arbitrator is selected. This prevents parties from delaying the selection of an arbitrator to delay proceedings and squander the effect of an arbitration award. Once selected, the arbitrator also has the power to order provisional remedies, a power not provided in the current law.

**Effective date: July 1, 2023
(applies to an action or proceeding commenced, or right accrued, on or after that date)*

Revised Uniform Arbitration Act (II)

PC319 (Stevens/Todd)



Demands Transparency: The current law allows an award to be vacated because of an arbitrator's partiality; however, it does not specifically require disclosure of any interest that may give rise to a question of neutrality. The RUAA demands transparency, requiring potential arbitrators to disclose any known facts that could affect their impartiality (such as financial or personal interests) **before** accepting appointment as arbitrator. The lack of disclosure itself may be a ground for vacating an award, and there is a presumption of partiality when non-disclosure occurs.

- Clarifies Arbitrator Authority: It contains several provisions intended to place arbitrators on the same level as judges in a judicial proceeding. It provides an arbitrator the express authority to make summary depositions of claims or issues, to use discovery processes as necessary, and to otherwise conduct proceedings as appropriate to ensure they are fair and expeditious.

**Effective date: July 1, 2023
(applies to an action or proceeding commenced, or right accrued, on or after that date)*

Dillard's Law

PC217 (Lowe/Cochran)

Allows the surviving parent or guardian of a child whose parent was a victim of vehicular homicide to convert a restitution order for child maintenance payments to a civil judgment at any time rather than following conclusion of the defendant's sentence.



**Effective date: July 1, 2023 – applies to restitution orders entered after that date*



Recoverable costs on appeal



PC62 (Stevens/Bulso)

Clarifies the costs that are recoverable to a successful appellant in COA or TN Supreme Court

when they incur costs for a bond , whether it's a bond premium or the cost of a letter of credit or other collateral – all of those costs that are necessarily incurred in connection with the prosecution of appeal with be recoverable



See: *Milan Express v. Navistar*, 627 S.W.3d 125 (Tenn. 2021)

*Effective date: March 23, 2023

Uninsured Motorist's Coverage



PC294 (Stevens/Bulso)

Allows a policy holder to bring in a responsible party who has been identified by a UM carrier after the one year statute of limitations

**Effective date: July 1, 2023*

Small Estate Probate Act changes

PC297 (Stevens/Stevens)



Resolves some unintended consequences of last year's revisions to the Small Estate Act

Re-writes the act – for estate administrations where there are probate assets under \$50k

TCA § 34-4-101, et. Seq.

**Effective date: April 28, 2023*

Bankers Omnibus Trust Bill (1)

PC166 (Stevens/Garrett)

Allows additional circumstances when a beneficiary may be represented by another person if a question or dispute related to the trust arises, if the beneficiary is not able to represent itself.

Clarifies that if a distribution is made in error, beneficiaries must return the distribution to either the trustee or to the court.

Authorizes non-judicial settlement agreements to be used in probate, as long as the matters to be resolved do not violate a material purpose or intention of the creator of the trust.

Clarifies that if all trustees and qualified beneficiaries of non-charitable, irrevocable trusts unanimously agree they may modify or terminate a trust.



**Effective date: April 17, 2023*

Bankers Omnibus Trust Bill (2)

PC166 (Stevens/Garrett)

Clarifies that if a distribution is made in error, beneficiaries must return the distribution to either the trustee or to the court.

Clarifies that the creator of a revocable trust may remove a trustee with 30 days notice.

Streamlines provisions for the release of a trustee if the trustee sends the required notices and info to all the beneficiaries and interested parties and no one objects.

Creates a new code section for decanting a trust, which allows a trustee to distribute all or a portion of the assets from an original trust to a second trust that may contain different provisions.



**Effective date: April 17, 2023*



Part V

Civil - Adoption

Administration Adoption Bill

PC187 (Johnson/Lamberth)

Surrender may be over a virtual platform on which the judge sees the person surrendering – JUDGE'S DISCRETION – 36-1-111(b)(1)



**Effective date: July 1, 2023*

Administration Adoption Bill (II)

PC187 (Johnson/Lamberth)

New, pre-birth surrender process – 36-1-111(d)(2)

- Parent completes surrender forms before a judge before the child is born
- Judge must explain the effect of signing and time limits for the parent to revoke their surrender
- Parent must complete a “written reaffirmation” of their surrender within 3 days after the child’s birth
- Surrender forms must be filed after the child is born
- Application to parental consents



**Effective date: July 1, 2023*



Administration Adoption Bill (III)

PC187 (Johnson/Lamberth)

Voluntary TPR may be completed 48 hours after a child's birth or upon the parent's discharge from a hospital or birthing facility, whichever occurs earlier -36-1-111 (d)(3)

Authorizes surrenders or parental consent to be executed at any time prior to birth, under certain conditions.

Prohibits identifying information from sealed records to be released if the adopted person's biological parent has executed a request for the redaction of identifying information when the adopted person was less than six months old



**Effective date: July 1, 2023*

Administration Adoption Bill (IV)

PC187 (Johnson/Lamberth)

Final adoption decree: Courts may reduce the 6 month waiting period to finalize adoptions to 3 months, if deemed in the best interest of the child



**Effective date: July 1, 2023*

Haile Adoption Bill

PC263 (Haile/Littleton)



Voluntary TPR

- Court may waive the three day revocation period for voluntary TPR - if the birth parent is represented by a TN attorney when surrendering a child. – 36-1-112

Involuntary TPR

- Termination ground changes:
 - Permits the termination of parental rights to be based on the parent having been charged or convicted of a rape from which the child was conceived.
 - No requirement for D&N petition to be filed – just “allegation”
- Requires DCS to file a petition to terminate parental rights within 90 days of a severe child abuse finding
- Authorizes DCS to file a petition to terminate parental rights if a parent has not made reasonable progress toward obtaining custody during a six-month period where the child has been in foster care

**Effective date: July 1, 2023
Section 8 – July 1, 2024*

Haile Adoption Bill (II)

PC263 (Haile/Littleton)



Venue: Adds that petitioner can file in any county adjacent those listed in 36-1-114

Requires a biological father to waive their parental rights prior to an adoption if that father has paid financial support to the child or child's mother, or if he has made a court filing or appearance consistent with the claim of paternity, or if he has openly lived with the child and held himself out as the father of the child.

Statute of repose: Decreases, from one year to nine months, the length of time a trial court has to overturn an adoption

Makes various changes to who may attend foster parent hearings

**Effective date: July 1, 2023*

Section 8 – July 1, 2024

Timeline for TPR hearing and ruling

PC219 (Rose/Leatherwood)

Court must provide a ruling on an involuntary TPR hearing within 30 days

Court must enter an order within 30 days of the ruling.

Removes the requirement of a father's consent for adoption proceedings being mandatory simply based on the father being recorded on the child's birth certificate - deletes 36-1-117(c)(3)

**Effective date: May 11, 2023*



TPR for prison time



PC219 (Haile/Slater)

Establishes that parental or guardianship rights may be terminated if a parent has been incarcerated as a result of one or more criminal acts to a sentence of six or more years, **AND** the parent or guardian meets at least one of the other conditions outlined in Tenn. Code Ann. § 36-1-113(g).



Reduces that time from the current 10 years

**Effective date: July 1, 2023*

Abandoned Baby

PC293 (Haile/Butler)

Court may waive the 6 month waiting period after adoption petition and grant the adoption if:

- The child is abandoned at a facility or safety device;
AND
- The child has lived with the petitioners for at least 3 months

If a newborn is abandoned:

- DCS shall file a TPR within 10 days after the 90 day waiting period
- Court shall expedite the case and make sure the TPR hearing is held within 30 days – unless an extension is in the best interest of the child



**Effective date: July 1, 2023*

4 y/o – changes for involuntary TPR based on abandonment

PC373 (Haile/Butler)

- If the child is less than 4 y/o, the abandonment period is now 3 months (If the child is 4+ it remains at 4 months) 36-1-102(1)(A)
- Amended or supplemental pleadings can have additional abandonment periods based upon the amended or supplemental pleadings filing date
- Burden of proof shifts to the respondent

**Effective date: July 1, 2023*



adoption records, etc.

PC253 (White/Russell)



- ❑ Makes a technical clarification concerning the form of an allegation of abuse in a proceeding to termination parental rights – clarifying when a court may find grounds of persistent conditions exist
- ❑ Removes the requirement to seal records after entry of the final order dismissing the adoption
- ❑ Requires court clerks conducting adoption proceedings to send adoption records to DCS at various stages of the adoption process

**Effective date: July 1, 2023*

Wrongful Adoption

PC361 (Walley/Hawk)

- ❑ Creates the tort of wrongful adoption – adoption facilitators soliciting placement may be liable – 29-34-214
- ❑ Creates a Class A misdemeanor for engaging or attempting to engage in placing children for adoption in violation of state law

**Effective date: July 1, 2023*



State lit tax on adoption proceedings

PC370 (White/Stevens)

- ❑ Prohibits the state from imposing a litigation tax on adoption proceedings in chancery, circuit, and juvenile courts.
- ❑ Affirms a county's right to continue to levy such a tax on the relevant proceedings.

**Effective date: July 1, 2023*



Part VI

Expunction



TBI expunction certification form



PC392 (Yager/Lamberth)

- Requires TBI to create a request for certification form
- To be completed by the court and submitted to the TBI
- Prior to entering any order of expunction
- TBI must determine the crime's eligibility prior to any expunction being granted by the court
- The court must then attach the certificate from the TBI to any expungement or

**Effective date: May 11, 2023.*

Implied Consent Expunction

PC137 (Massey/Lamberth)

Authorizes expunction of implied consent charges, if the violation was dismissed without cost.

Not applicable for commercial vehicles.

**Effective date: April 6, 2023.*

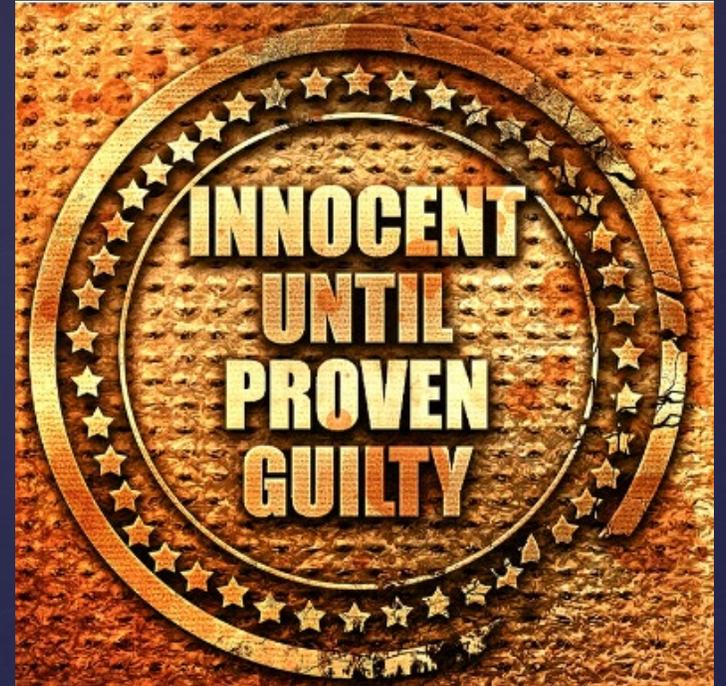


Expunction of pending charges at death



PC330 (Massey/Farmer)

Authorizes the expunction of public records, without cost, of a person who has been charged with a felony or a misdemeanor if the charge is abated by death



**Effective date: May 5, 2023.*

Expunction of voter fraud

PC315 (Henlsey/Rudd)

Adds voter fraud conviction as eligible for expunction

15 years after completion of sentence, etc.



**Effective date: July 1, 2023.*



Part VII

Criminal Law



Death Penalty – collateral review and the AG

PC182 (Lamberth/Taylor)



- ❑ In cases where D has been sentenced to death and is seeking collateral review of a conviction or sentence, the AG has exclusive control over the state's defense of the request
- ❑ AG is not bound by any stipulations, concessions, or other agreements made by the district attorney related to the request for collateral review.
- ❑ The trial court lacks jurisdiction to enter a final order granting relief for collateral review in such cases until the AG files a response to the request
- ❑ Requires DA to lend whatever assistance may be necessary to the AG in the trial and disposition of requests for collateral review, including giving over the DA's case file

**Effective date: April 28, 2023 – applies to all currently pending, reopened, and future requests for collateral review.*

Expedited Death Penalty

PC375 (Bowling/Russell)

Jury may determine whether D's death sentence must be expedited if:

- 3 or more victims;
- Offense was committed at a school; OR
- Victim was a first responder acting in the course of employment; AND
- The evidence presented at trial proving the defendant's guilt was incontestable (e.g. video or DNA evidence).

If the jury requires the sentence to be expedited, the sentence must be carried out within 30 business days of the conclusion of any appeal and exhaustion of all available methods of PCR

**Effective date: July 1, 2023.*



Consecutive Sentencing

PC481 (White/Russell)

Allows the court to sentence a defendant convicted of two or more offenses to consecutive sentences if it's for criminal offenses involving more than one victim if the court finds that a separate consecutive sentence for each offense **IS IN THE INTEREST OF JUSTICE**



**Effective date: July 1, 2023*



Bail for certain offenses

PC362 (Taylor/Gillespie)



No ROR without approval of a judge for:

- Class A felony
- Class B felony
- Agg assault
- Agg assault against a 1st responder
- Domestic assault if a felony offense



No release without approval of a judge for the same offenses

if a defendant commits aailable offense while out on bail, the magistrate shall set the new bail “in an amount not less than twice that which is customarily set for the offense charged”

**Effective date: July 1, 2023*

Bail Industry Bill

PC260 (Gardenhire/Doggett)

Requires, if a court issues a bench warrant due to a defendant's failure to appear on a felony or a Class A or Class B misdemeanor that is violent or sexual in nature as determined by the court or if a defendant is charged with a failure to appear, the defendant to be placed on any available state or federal list or database as a fugitive of justice, without limitation, within 10 days of the defendant's failure to appear.

Establishes that a surety is not liable for any undertaking if the defendant has not been placed on such a database within the time required by law.



**Effective date: July 1, 2022*

DUI second, etc.

PC116 (Haile/Lamberth)

DUI third and subsequent

- Transdermal device required for a minimum of 90 days

DUI second

- Reduces mandatory time before eligible to go to inpatient treatment from 25 to 17 days – to incentivize people to go to rehab

**Effective date: July 1, 2023.*



Vehicular Homicide (and Davidson DUI)

PC416 (Lundberg/Lamberth)

Davidson County – takes away judge’s ability to sentence 1st time DUI offender to serve 200 hours community service in lieu of minimum jail sentence

Truth-in-Sentencing for vehicular homicide and leaving the scene
- No release eligibility for a person committing the offense of vehicular homicide (39-13-213) and leaving the scene of an accident (55-10-101[a]) on or after July 1, 2023.

Class C misdemeanor for “hard debris” falling off non-commercial vehicle and hitting another (e.g. table).

**Effective date: July 1, 2023*



BUI Sentencing

PC383 (Massey/Carr)



- ❑ Authorizes the court to use same sentencing alternatives for BUI as DUI
- ❑ Adds mandatory minimum fines to the punishment similar to DUI fines
- ❑ Add BUI child endangerment
- ❑ Requires suspension of boating privileges for 12 months for BUI or BUI-related implied consent violation
- ❑ Clarifies LE may seek a search warrant to perform breath and blood tests of DUI suspects



**Effective date: July 1, 2023 (section 6 – 10/1/23)*

Video recording of a forensic interview of a child - admissibility



PC139 (Littleton/Haile)

- extends age of child from 13 to 18
- Add physical abuse (not just sexual) to acts that they be discussed in admissible interview
- Clarifies the recording is admissible at any time during a criminal or juvenile court proceeding.

**Effective date: April 6, 2023*

Silas Gable Flatt Law

PC243 (Bailey/Williams)

Creates class A misd. for knowingly providing car to someone you know or reasonably should know:

- Is under the influence of intoxicant, marijuana, controlled substance . . . Substance affecting the central nervous system
- Is driving on a suspended or revoked license for DUI conviction

Establishes penalties as follows:

- First offense: minimum of 48 hours incarceration
- Second offense: 72 hours
- Third offense: 7 consecutive days

**Effective date: July 1, 2023.*



Sentencing requirements for rape and agg kidnapping

PC155 (Taylor/Gillespie)

Sentencing within at least Range II required for the following offenses:

- Aggravated kidnapping;
- Aggravated rape; and
- Rape

**Effective date: July 1, 2023*



Changes to rape and incest sentencing - minors

PC283 (White/Littleton)

Rape of a minor – if victim is 13-17 y/o – the defendant shall be punished as a Range II offender or higher

Incest – if the victim is a minor – is a B Felony (increased from a C Felony)

**Effective date: July 1, 2023*



Strangulation

PC440 (Johnson/McCalmon)

- Clarifies that strangulation where the victim loses consciousness may be prosecuted as attempted 1st or 2nd degree murder
- Increases penalty for agg assault by strangulation or attempted strangulation on a pregnant victim from class c to class b felony
- Requires a person incarcerated for a domestic assault involving strangulation or attempted strangulation to participate in evidence based treatment for domestic violence
- Prohibits a magistrate from releasing a person on ROR if they've been charged with assault or agg assault relating to strangulation



**Effective date: July 1, 2023*

Voluntary manslaughter

PC308 (Rose/Hulsey)

Increases the penalty from a
Class C felony to a Class B
felony



**Effective date: July 1, 2023*

Fentanyl Sentencing

PC386 (Lundberg/Doggett)

Increases the penalty to a Class B felony with a fine of up to \$100k for drug offenses involving 0.5 grams or more of fentanyl, etc.

*DA bill – now small amounts of fentanyl have the same punishment levels as meth and cocaine

**Effective date: July 1, 2023*



Xylazine

PC412 (Reeves/Powers)



Xylazine is now illegal unless used in the court of legitimate veterinary practice

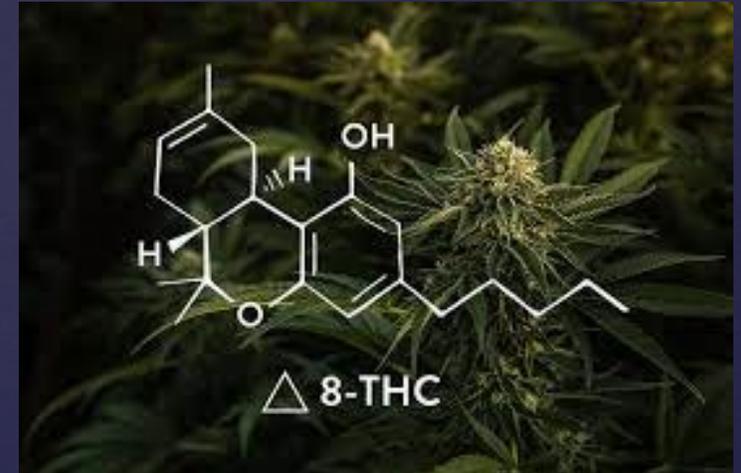


**Effective date: July 1, 2023*

Delta 8 Regulation

PC423 (Briggs/Lamberth)

- Seller must get a license by July 1, 2024
- Dept. of Ag. will test product before sale and create rules for this process
- State and local LE will have concurrent jurisdiction for enforcement
- Smoking it will fall under normal vaping/smoking laws
- Intoxication will fall under normal intox laws (DUI and public intox).



**Effective date: July 1, 2024*

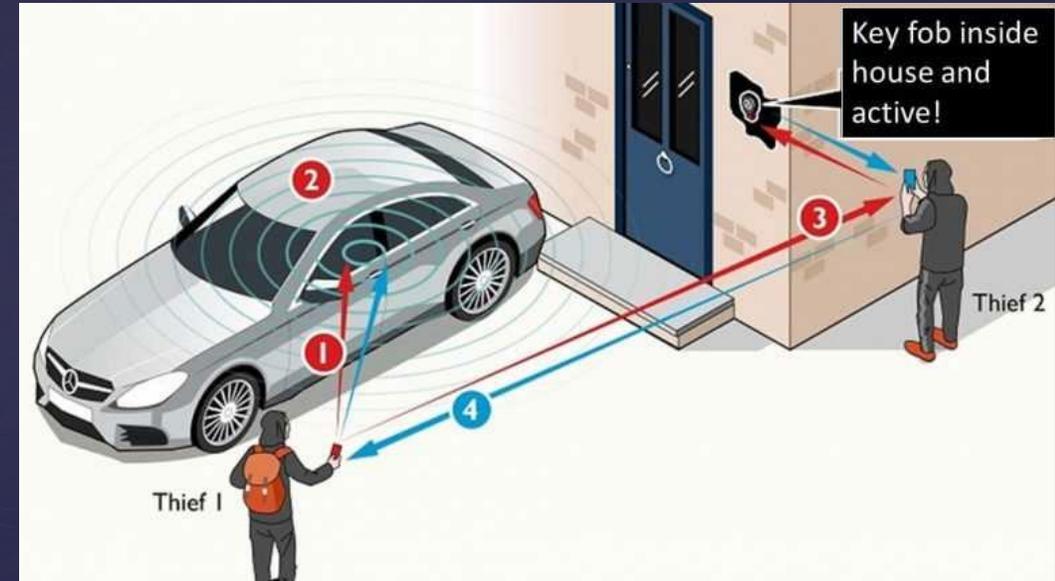


Copying a Key Fob

PC304 (Stevens/Howell)



It is an offense to possess a device, tool, machine, implement, or other item capable of programming a smart key fob with the intent to use it or allow it to be used to commit theft



Class A Misdemeanor

**Effective date: July 1, 2023*

RICO

PC487 (Watson/Lamberth)

Broadens the legislative intent under the RICO Act of 1989 to include prosecuting conduct that illegally furthers the interest of the criminal organization.

Lengthens the time that can elapse between incidents of racketeering conduct from 2 years to 8 years.

Redefines and expands the list of offenses included in “racketeering activity.”

Enhances the penalty for RICO violations, from a Class B felony to a Class A felony, if the conviction is based upon a pattern of racketeering activity that involved a homicide.



**Effective date: July 1, 2023*

Tyre Nichols Act

PC318 (Lamar/Parkinson)

Court may enhance sentence -- if defendant was engaged in his/her official duties as a law enforcement officer – for:

1. Assaultive offense
2. Criminal homicide
3. Kidnapping
4. False imprisonment
5. Robbery; or
6. A sexual offense



**Effective date: July 1, 2023*

Violent behavior while incarcerated



PC347 (Jackson/Moody)

Authorizes a court to order a defendant to serve multiple sentences consecutively if the defendant was incarcerated at the time of the offense and is convicted of one of the ten outlined offenses.

- (A) Aggravated assault, as defined in § 39-13-102;
- (B) First degree murder, as defined in § 39-13-202;
- (C) Second degree murder, as defined in § 39-13-210;
- (D) Voluntary manslaughter, as defined in § 39-13-211;
- (E) Criminally negligent homicide, as defined in § 39-13-212;
- (F) Aggravated rape, as defined in § 39-13-502;
- (G) Rape, as defined in § 39-13-503;
- (H) Aggravated sexual battery, as defined in § 39-13-504;
- (I) Sexual battery, as defined in § 39-13-505; and
- (J) Indecent exposure, as defined in § 39-13-511(c).

**Effective date: July 1, 2023*

Inmate Disciplinary Board

PC402 (McNally/Sexton)

Creates the Inmate Disciplinary Oversight Board for the purpose of granting or denying sentence credits for good institutional behavior and determining whether sentence credits previously awarded should be removed for commission of certain disciplinary offenses.



**Effective date: Jan. 1, 2024*

Good time credit

PC427 (Stevens/Lundberg)

Now, a superintendent or jail administrator must provide the TDOC with written documentation evidencing the good institutional behavior for the credits to be awarded



**Effective date: July 1, 2023*

GPS device is stalking

PC349 (White/Grills)

- ❑ Adds electronic tracking device without consent to TCA 39-17-315(a) stalking
- ❑ Unless used by law enforcement.

**Effective date: July 1, 2023*



Desecration of a house of worship



PC242 (Watson/Williams)

Broadens the offense of desecration of a house of worship by changing the culpable mental state from “intentionally” to “knowingly or recklessly”



**Effective date: July 1, 2023*

Drag Shows

PC2 (Johnson/Lamberth)

Offense for a person to perform adult cabaret on public property; or in a location where the adult cabaret entertainment could be viewed by a minor



See: *Friends of George's v. Mulroy* (PC2 held unconstitutional by western district of Tenn.)

**Effective date: April 1, 2023 and applies to conduct occurring on or after that date*



Abortion ban exceptions

PC313 (Briggs/Helton-Haynes)



Narrow legal exceptions to a total ban:

- ectopic and molar pregnancies;
- the removal of a miscarriage;
- To save the life of the mother;
- or
- Prevent serious risk of substantial and irreversible impairment of a major bodily function



**Effective date: April 8, 2023*



Part VI

August Special Session

Special Session

August 21, 2023

“ . . . to continue our important discussion about solutions to keep Tennessee communities safe and preserve the constitutional rights of law-abiding citizens.”
– Governor Lee





Part VII

Next Session

- Judicial redistricting (SB305)
- Juvenile Transfer bill (HB1029)
- 3 Strike Bill (HB1030)
- AOC expunction portal
- Office of GAL
- Elimination of professional privilege tax
- Guns in court
- Domestic Relations Arbitration Act
- Joint legal custody presumption
- Pets in divorce
- Public notice of forfeiture on SOS website



Thanks for listening!



If you have questions or comments, please contact us.

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