

# Legislative Update

## 112<sup>th</sup> General Assembly

General Sessions Judicial Conference

Chattanooga, September 22, 2022

Michelle Consiglio-Young, Esq. & Charlie Baldwin, Esq.





# Part I Judiciary

# Judicial Redistricting Task Force

PC1098 (Bell/Lamberth)

Task force to be created by July 1, 2025

Report and recommendation by Jan. 1, 2027

Must have at least one public hearing in each Grand Division

Travel reimbursements only

AOC must establish a website which includes meeting notices and redistricting plans

AOC to provide support services



*\*Effective date: May 27, 2022*

# Judicial Redistricting Task Force (continued)

## Membership:

- 3 current trial judges
  - Speaker of the House: East and Middle
  - Speaker of the Senate: West
- 3 current DAs
  - Speaker of the House: West
  - Speaker of the Senate: East and Middle
- 3 current PDs
  - Speaker of the House: East and Middle
  - Speaker of the Senate: West
- 3 citizen members
  - Speaker of the House: West
  - Speaker of the Senate: East and Middle
- Chair of Senate Judiciary Committee – *Joint chair of the Task Force*
- Chair of House Civil Justice Committee – *Joint chair of the Task Force*



# Judicial Redistricting Task Force (continued)



By December 31, 2027, following the submission of the task force's report and recommendations, the General Assembly shall:

- Reapportion the judicial districts, and
- Promote the efficient utilization of publicly funded resources allocated for the courts



If the General Assembly fails to pass this legislation, then the funding for each judicial district that has a disproportionately high number of judges, as determined by the Comptroller, must be reduced by 10% during the subsequent fiscal year

# BJC Changes

PC976 (Bell/Curcio)

Makes various changes to BJC:

- Creates a one year statute of limitations
- Allows BJC to pay for a mental/physical evaluation if a judge's mental or physical abilities are called in question and he/she has been referred to TLAP
- Allows for earlier dismissal of complaints that are repetitive or outside of BJC jurisdiction
- If a term ends without an appointment, the current appointee is allowed to continue to serve until an appointment is made

*Effective date: July 1, 2022*



# Judicial candidates - personal solicitation

PC668 (Bell/Lamberth)

Authorizes a judicial candidate to personally solicit and accept campaign contributions. Effective March 18, 2022.

*\* Judicial Ethics Committee Advisory Opinion 22-01*



# Mental Health Treatment Act

PC1071 (Roberts/Sexton)



- Mental Health Court for each county
- To be created by DMHSAS
- court with criminal jurisdiction may apply for grant funding



*Effective date: May 25, 2022*

# Part II

## Criminal Law



# Truth-in-Sentencing

PC988 (McNally/C. Sexton)

There will be no release eligibility, or credit reduction (only for privileges or classification purposes), for a person committing:

- Attempted first degree murder;
- Second degree murder;
- Vehicular homicide by intoxication;
- Aggravated vehicular homicide;
- Especially aggravated kidnapping;
- Especially aggravated robbery;
- Carjacking; and
- Especially aggravated burglary



*\*Effective date: July 1, 2022*

# Truth-in-sentencing (continued)

There will be no release eligibility, or credit reduction beyond 15%, for a person committing:

- Aggravated assault (with a deadly weapon, SBJ or death, or against a first responder);
- Voluntary manslaughter;
- Vehicular homicide;
- Reckless homicide;
- Aggravated kidnapping;
- Involuntary labor servitude;
- Aggravated robbery;
- Aggravated burglary;
- Aggravated arson;
- Possessing or using a firearm during the commission or attempt to commit a dangerous felony;
- Manufacture, delivery or sale of a controlled substance; and classified as a Class A, B, or C felony; and has two (2) or more prior felonies for the same; or
- Criminally negligent homicide



# Misdemeanor revocation

PC1060 (Bell/Lamberth)

Authorizes a court to revoke a defendant's probation and suspension of sentence, in part or in full, for a misdemeanor offense based upon one instance of a technical violation or violations

Authorizes the court to sentence the defendant to a sentence of probation for the remainder of the unexpired term.

Establishes a technical violation does not include contacting the defendant's victim in violation of a condition of probation



*\*Effective date: July 1, 2022*

# Expunction change

PC677 (Lundberg/Lamberth)

Revises law so that a person may apply for expunction even if they've been convicted of another non-expungeable offense.

- They must not have been convicted of a non-expungeable offense that occurred prior to the offense for which they're seeking expunction
- They may not apply if they've ever had another offense expunged.
- Applicable time since completion of sentence applies to the most recent criminal offense.

Effective date: July 1, 2022



# Expunction for crimes prior to '89

PC1027 (Bell/Curcio)



Applies current expunction laws to those crimes committed prior to 1989.

1989

Effective date: July 1, 2022

# Administration Human Trafficking changes

PC1115 (Johnson/Lamberth)

- Expands eligibility for order of protection / ex-parte orders of protection by adding in “sexual exploitation of a minor” and “human trafficking offenses”
- Makes changes to expunction changes for victims of human trafficking.



*\*Effective date: July 1, 2022*

# Human Trafficking Expunction

PC1033 (Massey/Littleton)

Removes a conviction for prostitution as a requirement for a person to be eligible for expunction of multiple, nonviolent convictions for offenses that results from the person's status as a victim of human trafficking

*\*Effective date: July 1, 2022.*



# Discretionary additional 12 hour hold for Agg. Domestic Assault

PC828 (Hakeem/Yarbro)

TCA 40-11-150 (n) *new subsection*

The court or magistrate may, in addition to the 12 hour hold period and victim notification requirements in subsection (m), extend the 12 hour hold period of to 24 hours after the time of arrest.

*\*Effective date: July 1, 2022*



# New Offense – Agg. Reckless Driving

PC1022 (Bell/Curcio)

Creates new crime of Aggravated Reckless Driving

1. Commits reckless driving, and
2. Intentionally or knowingly impedes traffic

A class A misdemeanor (and up to \$2,500 fine)

*\*Effective date: for offenses occurring after July 1, 2022*



# BUI – “Nicholas’ Law”

PC910 (White/Ogles)

A prior conviction for BUI under T.C.A. § 69-9-217(a) is treated the same as a prior conviction for DUI under T.C.A. § 55-10-401 in determining if someone is a repeat or multiple offender in T.C.A. § 55-10-405.

Likewise, a prior conviction for DUI under T.C.A. § 55-10-401 will be treated the same as a prior conviction for BUI under T.C.A. § 69-9-217(a) in determining if someone is a repeat or multiple offender in T.C.A. § 69-9-219

Must allege prior conviction by setting forth the time and place of each in indictment or charging instrument

Certified computer print out of the official driver record maintained by TDOSHS constitutes prima facie evidence of a prior conviction of DUI, VA, AVA, VH, or AVH

*\*Effective date: July 1, 2022*



# Ignition Interlock required as a bail condition

PC1134 (Stevens/Garrett)



If charged with DUI, vehicular assault, aggravated vehicular assault, vehicular homicide, or aggravated vehicular homicide, and the use of alcohol is involved, then:

The court “shall” require a functioning ignition interlock device be installed, as a condition of bail, if:

- A collision involving property damaged resulted;
- A minor was present in the vehicle;
- Their driver’s license is suspended for Implied Consent; or
- The defendant has a prior for Reckless Driving, Reckless Endangerment, DUI, VA, AVA, VH, or AVH

Unless the court “determines that the requirement would not be in the best interest of justice and public safety”

*\*Effective date: July 1, 2022*

# Ignition Interlock Changes

## PC964 (Johnson/Lamberth)

- ❑ Adds *reckless endangerment* (if original charge was a DUI) and *DUI* to offenses that require ignition interlock that occurred within the preceding 5 year period
- ❑ Adds going to-and-from medical treatment (including for an immediate family member) and/or care of an immediate family member suffering from a serious illness to reasons why a court may allow limited driving
- ❑ Deletes the six month requirement for interlock device after the license revocation period
- ❑ Prohibits Dept. of Safety from accepting a court order waiving any ignition interlock requirements if the court order is not in compliance with statutes



# Ignition Interlock Changes (cont.)

## PC964 (Johnson/Lamberth)

- ❑ Establishes a process for the Dept. of Safety to waive the interlock requirement for those who cannot produce enough breath to operate an interlock device (*Dept. of Safety to create a form which will require statements from two physicians*).
- ❑ Person may petition a court for reinstatement of his/her driver's license. Upon the court order, the Dept. of Safety will reinstate the license. No six month extra requirement.
- ❑ Changes "shall" to "must" in several parts of TCA § 55-10-417. Ignition interlock restriction **MUST** be a condition of probation or supervision for entire period of restriction (a)(3). Court **MUST** establish a specific calibration setting of .02% BAC at which the functioning interlock device will prevent the motor vehicle from being started (b).
- ❑ Makes various changes to timelines and start dates for 365 day interlock period for Dept. of Safety



# EMIF Task Force

PC1084 (Stevens/Curcio)



To study and make recommendations on the use of the Electronic Monitoring Indigency Fund

Goals of the Task Force:

- Clarifying the definition of indigency – only for the EMIF
- Make recommendations for better funding

*\*Effective date: July 1, 2022*

# Electronic Monitoring Service Providers

PC1097 (Bell/Curcio)

Establishes requirements for electronic monitoring service providers.

*Effective date: May 27, 2022*



# Driver's License Payment Plan

PC788 (Johnson/Lamberth)

Deletes § 55-12-129(g)(5), removing the prohibition of the ability to enter into an installment plan after default under a previous installment plan

*\*Effective date: when the Dept. of Safety is able to implement or on July 1, 2022, whichever is sooner.*



# Fentanyl Testing Strips

PC764 (Johnson/Lamberth)

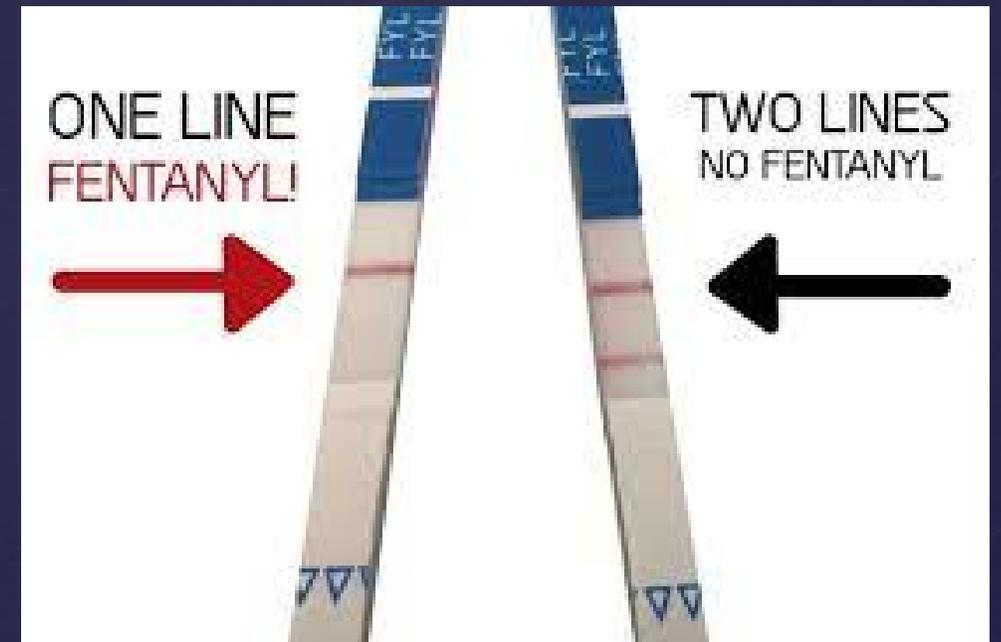


Excludes fentanyl testing strips from definition of “drug paraphernalia.”

Except if defendant is using it as parting of selling drugs.

3 year sunset.

*\*Effective date: March 31, 2022*



# Pill Press = Drug Paraphernalia

PC804 (Lamberth/Reeves)

- ❑ Adds a pill press (and individual parts) to the definition of “drug paraphernalia.”
- ❑ Unless lawfully possessed.

*\*Effective date: July 1, 2022*



# Constable crimes

PC969 (Lundberg/Hulsey)



If elected constable is indicted or formally charged with a misdemeanor involving gambling or moral turpitude or a felony, then the constable shall be placed on administrative leave by the court with jurisdiction over the criminal offense.

Court may hold constable who does not comply in criminal contempt.



*\*Effective date: May 3, 2022*

# Clarification of summons

PC981 (Niceley/Russell)

Clarifies that a judge has the authority to issue a criminal summons as opposed to a warrant for a new arrest for violation of probation.



*\*Effective date: July 1, 2022.*

# SAVIN Court Criminal Notification

PC1140 (Haile/Curcio)

Sheriffs Association expanding current automated victim notification system (SAVIN)

Info on criminal case to be available to those who register

Notice of upcoming hearings, trial, sentencing, etc.

Summary of past hearings

Pilot program starting July 1, 2022



# Smokeless Nicotine Products

Must be 21 years or older

Defines "smokeless nicotine product" as nicotine that is in the form of a solid, gel, gum, or paste that is intended for human consumption or placement in the oral cavity for absorption into the human body by any means other than inhalation and does not include tobacco or tobacco products.



# New Forms

Expunction Notification Reference

Order of Protection

DUI Notice of Punishment

Order for bail in abuse cases updated with a possible 24 hour hold



# Part III

## Civil Law



# Noah's Law

*\*Effective date: April 6, 2022*



PC767 (Haile/Garrett)

A custodial parent, may file a motion seeking emergency order declaring the child to be in imminent danger and ordering the return of the child, if the court finds:

1. A custody, parentage, child support, or D&N is pending before the court;
2. Noncustodial parent failed to return the child;
3. Custodial parent has reported the child missing to LE;
4. At least 48 hours have passed since child was to be returned;  
AND
5. Non-custodial parent has failed to contact custodial parent in past 48 ours; OR has failed to return the child



Clerk to immediately email the order to LE investigating the report

# Preparation of Permanency Plan – allegations of abuse or neglect

PC918 (Jackson/Littleton)



Requires, in cases of child abuse, the agency preparing the plan and the court developing or approving that plan to consider whether allegations of abuse or neglect warrant supervision of any visitation between the child and the abusing or neglecting parent, and whether it is in the child's best interest that supervision be required ongoing.

*Effective date: July 1, 2022*

# Tort Settlements involving minors

PC917 (Yarbro/Beck)

Removes the requirement for court approval on tort claim settlements involving minors that is less than \$10,000.

*Effective date: April 27, 2022*





# Part IV

Bills that didn't pass

- Complete Truth-in-Sentencing
- Bail overhaul
- BJC appeals process
- Abusive pro-se litigant database
- Criminal Forfeiture Process Act
- GPS required for domestic assault
- Special hearings to determine justification of use-of-force



# *Thanks for listening!*



If you have questions or comments, please contact us.

**Michelle Consiglio-Young, Esq.**  
**615-741-2687**  
**[michelle.consiglio-young@tncourts.gov](mailto:michelle.consiglio-young@tncourts.gov)**

**Charlie Baldwin, Esq.**  
**615-741-2687**  
**[charlie.Baldwin@tncourts.gov](mailto:charlie.Baldwin@tncourts.gov)**