

Tennessee Legislative Report

Updated: Friday, June 18, 2010

CRIMINAL LAW

[SB 2392](#)

Jackson

[HB 2693](#)

Shepard

Murder of a pregnant woman. Adds murder committed against a pregnant woman while knowing the woman is pregnant to the list of offenses which a judge can impose a life imprisonment without possibility of parole or the death penalty sentence. (S: Jackson; H: Shepard)

House Co-Sponsor: Evans

Joint Oversight Committee on Corrections: This bill adds the condition of pregnancy as an enhancement factor in determining the sentence for murder of a woman.

Senate Status: Senate passed 06/04/2010.

House Status: House passed 06/03/2010.

Other Status: Sent to governor 06/11/2010.

[SB 2395](#)

Black

[HB 2438](#)

Maggart

Aggravated rape of a child. Adds aggravated rape of a child to the list of offenses for which a juvenile can be transferred from juvenile court to adult court. Broadly Captioned. (S: Black; H: Maggart)

Senate Co-Sponsors: Gresham; Burks

House Co-Sponsors: Fincher; Williams K.; Hardaway; Moore; Lollar; Campfield; Rich; Hensley; Dean; Johnson C.; Haynes R.; McDonald; Watson E.; Brooks, Harry; Brooks, Kevin

Judicial Council comment: The Judicial Council understands that this legislation is designed to remedy an inadvertent omission following the creation of the offense of aggravated rape of a child in 2006. This is a policy matter within the discretion of the legislature. **Joint Oversight Committee on Corrections:** Current practice would indicate that, in most if not all cases, a child committing aggravated rape of a child is already being tried as adult under the offense of rape of a child. This bill would assure that a child committing aggravated rape of a child could be tried as an adult.

Senate Status: Senate passed 04/19/2010.

House Status: House passed 03/22/2010.

Other Status: Enacted as Public Chapter 0860 (effective 07/01/2010).

[SB 2654](#)

Bunch

[HB 2801](#)

Dean

Returning of defendant by bail bondsman. Authorizes a bail bondsman to return a defendant to the jurisdiction for which the bail bond is obligated for the defendant's appearance, provided that the bail bondsman is liable for the expenses of returning the defendant. (S: Bunch; H: Dean)

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

House Co-Sponsor: Watson E.

Amendment: Senate amendment 1 clarifies that the provisions of the bill apply only to intra-state transfers of such defendants.

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

House Status: House 04/05/2010 concurred in Senate amendment.

Other Status: Enacted as Public Chapter 0799 (effective 04/19/2010).

SB 2665

Burks

[HB 2752](#)

Swafford

Forfeitures of property: sexual offenses against a minor. Provides that real or personal property used to commit a sexual offense against a minor will be forfeited if the offense occurs on or after July 1, 2010. (S: Burks; H: Swafford)

Amendment: Senate Judiciary amendment 1 effective July 1, 2010, after reimbursement for all litigation expenses incurred by the district attorney general that were incident to the litigation and approved by the court as authorized by TCA 39-11- 713(a), requires the clerk of the court where the forfeiture occurs to transmit 15 percent of the remaining proceeds to the law enforcement agency conducting the investigation that resulted in the seizure. Requires the court clerk to transmit the remainder of the funds to the Department of Finance & Administration (F&A) for deposit in the Child Abuse Fund to be allocated as follows: 45 percent to the state chapter of Children's Advocacy Centers for the purpose of child abuse prevention activities; 27.5 percent to the Court Appointed Special Advocates (CASA) for the purpose of expanding services of existing programs and developing new programs; and 27.5 percent to Prevent Child Abuse Tennessee for the purpose of statewide child abuse prevention programs and activities. By January 15, 2014, requires the Select Committee on Children and Youth to review the provisions of this act and report the findings to the House of Representatives and the Senate Judiciary Committees, and the House of Representatives Children and Family Affairs Committee. The review shall examine the number of cases in which seizures and forfeitures were effectuated, an inventory of the type of property seized, the amount of revenue derived from such forfeitures, whether the revenue was distributed as required by this act, the manner in which the revenue was used by the various agencies, and whether the Committee recommends adjusting the allocation percentages to maximize child abuse prevention and prevention programs. Senate Judiciary amendment 2 specifies 15 percent of the proceeds from such forfeitures be diverted to the district attorneys general conference for child abuse prosecutions and training for asset forfeitures. Senate Finance amendment 1 removes recouped expenses going back to the district attorneys from the bill, but leaves the 15 percent going to district attorneys created by Senate Judiciary amendment 2. House Judiciary amendment 1 corrects a drafting error in the bill. House Judiciary amendment 2 rewrites the bill. Specifies that any conveyance of real or personal property used in the commission of a

sexual offense committed against a minor or an offense regarding sexual exploitation of children, committed on or after July 1, 2006, but prior to July 1, 2010, is subject to administrative forfeiture. Any such offense committed on or after July 1, 2010, will be subject to judicial rather than administrative forfeiture. Effective July 1, 2010, after reimbursement for all litigation expenses incurred by the district attorney general that were incident to the litigation and approved by the court as authorized by Tenn. Code Ann. § 39-11-713(a), requires the clerk of the court where the forfeiture occurs to transmit 15 percent of the remaining proceeds to the law enforcement agency conducting the investigation that resulted in the seizure. Requires the court clerk to transmit the remainder of the funds to the Department of Finance & Administration (F&A) for deposit in the Child Abuse Fund to be allocated as follows: 45 percent to the state chapter of Children's Advocacy Centers for the purpose of child abuse prevention activities; 27.5 percent to the Court Appointed Special Advocates (CASA) for the purpose of expanding services of existing programs and developing new programs; and 27.5 percent to Prevent Child Abuse Tennessee for the purpose of statewide child abuse prevention programs and activities. By January 15, 2014, requires the Tennessee Commission on Children and Youth (TCCY) to review the provisions of this act and report the findings to the House of Representatives and the Senate Judiciary Committees, and the House of Representatives Children and Family Affairs Committee. The review shall examine the number of cases in which seizures and forfeitures were effectuated, an inventory of the type of property seized, the amount of revenue derived from such forfeitures, whether the revenue was distributed as required by this act, the manner in which the revenue was used by the various agencies, and whether the Commission recommends adjusting the allocation percentages to maximize child abuse prevention and prevention programs.

Judicial Council comment: (3/4/2010) The Judicial Council observed that shifting the forfeitures contemplated by the bill from the administrative law forfeiture procedures to the judicial forfeiture procedures, would not appear to result in a large number of additional cases for the courts. Whether such a shifting of these forfeiture cases should be made is a question of legislative policy on which the Judicial Council offered no comment. **Judicial Council Comment:** The Judicial Council noted that the number of the types of forfeiture proceedings contemplated by this legislation is undeterminable using currently available data. While a high number of these forfeitures could have judicial caseload implications, members of the council representing the Tennessee District Attorney Generals Conference, whose members would be responsible for instituting such proceedings, indicated that the number of forfeitures pursuant to this legislation would likely be low because of mortgages, security interests and liens that secure many of the types of properties that may be seized under this bill.

Senate Status: Re-referred to Senate Calendar Committee 06/03/2010.

House Status: Taken off notice in House Finance, Ways & Means 06/02/2010.

Other Status: Select Committee on Children & Youth deferred to next meeting.

SB 2721

Overbey

[HB 2796](#)

Ramsey B.

Soliciting the sexual exploitation of a minor. Provides that offense of soliciting the sexual exploitation of a minor can be prosecuted in this state against person located outside the state if the person solicited a law enforcement officer posing as a minor located within this state. (S: Overbey; H: Ramsey B.)

Senate Co-Sponsor: Ketron

House Co-Sponsor: Jones S.

Judicial Council Comment: The Judicial Council concluded that this is a policy matter within the discretion of the legislature.

Senate Status: Taken off notice in Senate Finance, Ways & Means 06/01/2010.

House Status: Taken off notice in House Finance Budget Subcommittee 06/02/2010.

Other Status: Tennessee Judicial Council reviewed 02/18/2010 with comment.

SB 2724

Black

[HB 2788](#)

Maggart

Sexual offenders: alterations and added penalties. Rewrites certain provisions of the Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act of 2004, including requiring the offender to list employer's address information and the description and license plates of the offender's vehicle. Adds more offenses that qualify for sexual offender registration and allows an offender to request an exemption to these new registration rules. Requires offenders to have a valid driver's license or identification card within 60 days of registration and requires that offenders without a driver's license or identification card have committed a Class E felony. (S: Black; H: Maggart)

House Co-Sponsor: Fincher

Amendment: Senate amendment 1 adds new section requiring violent sexual offenders to pay specified administrative costs associated with sexual offender registry registration at the time of the offender's initial registration or reporting period. Requires offenders whose initial registration occurs after the annual reporting period to pay all administrative costs at the time of his or her initial registration. House amendment 2 revises the present law requirement that a violent sexual offender must report in person to the designated law enforcement agency to update the offender's fingerprints, palm prints and photograph, as determined necessary by the agency, and to verify the continued

accuracy of the information in the TBI registration form. Under present law, the violent sexual offender must report for such updates "at least once" during the months of March, June, September, and December of each calendar year. This amendment clarifies that the offender must appear for an updates during those months instead of "at least once" during those months.

Joint Oversight Committee on Corrections: This bill would strengthen and enhance the Sexual Offender Registration Act by adding new offenses and requiring more information be provided and made available to the public. Enactment of this bill would help bring the state into compliance with the provisions and requirements of the federal Byrne Act Grant.

Senate Status: Senate 06/09/2010 concurred in House amendment 2.

House Status: House 06/08/2010 passed with amendment 2.

Other Status: Sent to the speakers for signatures 06/09/2010.

SB 2725

Black

[HB 2789](#)

Maggart

Creates a violent juvenile sexual offender registry. Creates a violent juvenile sexual offender registry. Defines a violent juvenile sexual offender as a person 14 years of age or more but less than 18 years of age who has been adjudicated delinquent in this state for any act that, if committed by an adult, constitutes a violent juvenile sexual offense. Specifies that when a violent juvenile sexual offender becomes 18 years of age, such offender shall become a violent sexual offender. (S: Black; H: Maggart)

House Co-Sponsor: Fincher

Amendment: Senate Judiciary amendment 1, as amended, rewrites the bill. Establishes a juvenile sex offender registry. Defines violent juvenile sexual offender as a person 14 to 18 years of age who has been adjudicated delinquent and has been found to be at high risk of re-offending by a court exercising juvenile jurisdiction or has a prior adjudication of delinquency for a violent juvenile sexual offense. Specifies that when a violent juvenile sexual offender becomes 18 such an offender becomes a violent sexual offender for purposes of the law governing violent sexual offenders. Defines violent juvenile sexual offense as aggravated rape, rape, aggravated sexual battery, rape of a child (provided the victim is at least four years younger than the offender), aggravated rape of a child, or criminal attempt of any such crime. Allows such offenders, once the offender is 19 years of age, to be removed from the registry by the TBI provided the individual has not re-offended as has complied with all requirements in connection to maintaining registration as necessary. Senate Judiciary amendment 2 clarifies that the court would hold a second, separate hearing on whether or not to put an individual on the violent juvenile sex offender registry. Specifies that the court may hear the opinion of a qualified mental health professional after conducting a standardized assessment of the juvenile

on whether the individual should be added to the registry. Specifies that after a second violent sexual offense as a juvenile, such an individual would be included in the registry automatically. Senate Judiciary amendment 3 changes from TBI to sex offender treatment board the entity which decides whether on not an individual may be removed from the registry. Senate Judiciary amendment 4 establishes an appeals process once it is adjudicated that an individual is to be placed on the registry. Specifies that in the event of such an appeal, the placing of such an individual on the registry will be delayed until the appeal is complete. House Judiciary amendment 1 redefines a violent juvenile sexual offender as: a juvenile aged 14 to 17 who has been adjudicated for a violent juvenile sexual offense and has been found to be at a high risk of re-offending or has a prior adjudication for a violent juvenile sexual offense. Requires a violent juvenile sexual offender to become a violent sexual offender when the juvenile turns 18 years old. Requires courts to notify the TBI within 48 hours after the juvenile's adjudication for a second violent sexual offense or the finding that the juvenile is at a high risk of re-offending. Requires the violent juvenile sexual offender to comply with residency restrictions when the juvenile turns 18 years old, or older, or has graduated from high school, whichever occurs later. House Judiciary amendment 2 corrects typographical errors and requires the juvenile to have notice of potential penalties for being adjudicated as a violent juvenile sexual offender. House Judiciary amendment 3 corrects typographical errors and allows a violent juvenile sexual offender to apply for criminal record expunction according to existing law.

Senate Status: Re-referred to Senate Calendar Committee 06/04/2010.

House Status: Taken off notice in House Finance Budget Subcommittee 06/02/2010.

Other Status: Select Committee on Children & Youth deferred to next meeting.

SB 2757

Jackson

HB 2918

Fincher

Aggravating factors for purposes of imposing death sentence. Adds discrimination, drive-by-shooting, and witness intimidation to the list of statutory aggravating circumstances for imposing the death penalty or life imprisonment without the possibility of parole in first degree murder cases. (S: Jackson; H: Fincher)

Senate Status: Senate Finance deferred to next meeting.

House Status: Taken off notice in House Finance Budget Subcommittee 06/02/2010.

SB 2890

Gresham

HB 3040

Carrying and serving of subpoenas by law enforcement. Permits a full-time POST-certified law enforcement officer to carry issued but blank subpoenas during course of official duties. Permits the officer to

Dennis

complete and serve the subpoena at the scene of a crime or during the course of an investigation. (S: Gresham; H: Dennis)

Amendment: House amendment 1 rewrites the bill. Authorizes the chief law enforcement officer of a county or municipality to request and be granted signed, blank subpoenas from the court clerk. Allows these blank subpoenas to be carried by POST-certified officers. Senate amendment 2 rewrites the bill to create a pilot project in the 24th judicial district (Benton, Carroll, Decatur, Hardin and Henry counties) and the 25th judicial district (Fayette, Hardeman, Lauderdale, McNairy and Tipton counties). Specifies that any county or municipality in the 24th or 25th judicial district may elect to participate by two-thirds vote of its legislative body. Requires the law enforcement agencies and affected clerks involved in the pilot project to submit an assessment report to the AOC by June 30, 2011, the date by which this act shall cease to be effective. Specifies the following for such counties or municipality electing to participate: Authorizes the chief law enforcement officer of a county or municipality to request and be granted signed, blank subpoenas from the court clerk. Allows these blank subpoenas to be carried by POST-certified officers. Authorizes law enforcement officers to issue and serve subpoenas at the scene of an arrest if the person arrested for the offense is still present, the testimony of a witness to the offense is necessary for prosecution, the officer completes the subpoena prior to service, and ensures that the date of attendance listed on the subpoena is likely to be the arrested person's court date. Requires subpoenas to be returned to the court within three days of service.

Judicial Council Comment: The Judicial Council was informed that the sponsor is amending the bill to substitute references to the Tennessee Rules of Criminal Procedure for the references to the Tennessee Rules of Civil Procedure. The Council believes that this change is appropriate. However, with regard to the substantive effect of the bill, the Council noted that allowing a law enforcement officer to serve subpoenas in the absence of a pending criminal proceeding and without the request of a party to such a proceeding creates the potential for abuse. Moreover, pursuant to Rule 17 of the Tennessee Rules of Criminal Procedure, a subpoena must state the court's name and the title of the proceeding, and must direct the person to give testimony at a particular time and place. In the absence of a pending proceeding, it will not be possible for a law enforcement officer to comply with these requirements.

Senate Status: Senate 04/29/2010 passed with amendment 2.

House Status: Held on House clerk's desk.

Other Status: Tennessee Judicial Council reviewed 02/18/2010 with comment.

SB 2916
Finney L.

Bail bonds - release of surety's liability. Mandates, rather than allows, release of surety's liability if detainer request is refused or if detaining

HB 3138
Hackworth authority releases principal upon the detainer's filing. (S: Finney L.; H: Hackworth)

[Public Chapter \(PDF\)](#) **Senate Status:** Senate passed 04/19/2010.
House Status: House passed 03/22/2010.
Other Status: Enacted as Public Chapter 0866 (effective 04/30/2010).

SB 3169
Burchett
[HB 3196](#)
Faulkner **DNA database of juvenile sexual offenders.** Requires the TBI's DNA database to include violent juvenile sexual offenders. (S: Burchett; H: Faulkner)
Senate Co-Sponsors: Ketron; Overbey; Ramsey R.; Watson B.; Yager; Faulk; Tracy; Johnson J.

[Public Chapter \(PDF\)](#) **House Co-Sponsors:** Fincher; Maggart; Lynn
Joint Oversight Committee on Corrections: This bill would require certain offenders classified as a "juvenile sex offender" to be subject to the same data base requirements as an adult sex offender and would provide more data for public consumption.

Senate Status: Senate passed 05/10/2010.
House Status: House passed 04/12/2010.
Other Status: Enacted as Public Chapter 0964 (effective 07/01/2010).

SB 3314
Kelsey
[HB 2626](#)
Lollar **Juvenile's prior convictions: class A or B adult felonies.** Specifies that a juvenile court's finding that a juvenile committed an adult's Class A or B felony constitutes a prior conviction for the determination of the juvenile's sentence. (S: Kelsey; H: Lollar)

[Public Chapter \(PDF\)](#) **Senate Co-Sponsors:** Burks; Black
House Co-Sponsors: Fincher; Rich; Maggart
Judicial Council comment: The Judicial Council observed that this is a policy matter within the discretion of the legislature. Assuming the state and/or federal courts conclude that the adjudication at issue constitutes a "conviction" for purposes of *Blakely v. Washington*, 542 U.S. 296 (2004), a judge could make the necessary determinations and a jury would not be required to consider the matter during a bifurcated proceeding. However, the parties, whose resources are already limited, will be required to gather and present evidence regarding whether the juvenile adjudication resulted in "imprisonment" and, if so, whether the offender was provided counsel or, in the alternative, knowingly and voluntarily waived counsel. See *Nichols v. United States*, 511 U.S. 738 (1994).

Senate Status: Senate passed 04/15/2010.
House Status: House passed 04/01/2010.
Other Status: Enacted as Public Chapter 0861 (effective 07/01/2010).

SB 3318 **Aggravated rape of a child.** Expands the definition of aggravated rape

Kelsey
[HB 2632](#)
DeBerry J.

of a child to include the rape of a victim who is 10 years of age or less and requires punishment of life imprisonment. (S: Kelsey; H: DeBerry J.)

Joint Oversight Committee on Corrections: Aggravated rape of child was introduced as a part of public chapter 890, acts of 2006 which states, "The provisions of this act, even though not codified together, may collectively be known as the 'Child Protection Act of 2006' and was set at the age of three for fiscal reasons." This bill raises that age to 10 and raises the penalty from "40 to 60 years" to life in prison.

Senate Status: Taken off notice in Senate Finance, Ways & Means 06/04/2010.

House Status: Taken off notice in House Finance Budget Subcommittee 06/02/2010.

Other Status: Oversight Corrections Committee 02/22/2010 reviewed, comment adopted and released to full committee.

SB 3346
Kyle
[HB 3281](#)
Coleman

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

Senate Co-Sponsor: Burks

House Co-Sponsors: Maggart; Rich; Bass; Lundberg; Sontany; Matheny; Watson E.; Todd; Shipley; Fincher; Hardaway

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

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

Senate Status: Senate passed 04/15/2010.

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

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

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

SB 3431

Henry

[HB 2813](#)

Odom

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

House Co-Sponsors: Harwell; Sontany

Amendment: HOUSE AMENDMENT 1 prohibits judges from imposing sentencing alternatives of continuous confinement in a local jail or the DOC when sentencing a defendant convicted of a non-violent property offense. Authorizes a judge to sentence the defendant to community corrections, probation, pre-trial diversion, or judicial diversion. Authorizes a judge to sentence the defendant to continuous confinement under certain circumstances. Requires an offender convicted of the Class B felony offense of aggravated robbery to serve 89 percent of the sentence imposed by the court less sentence reduction credits earned and retained. Requires sentence reduction credits to reduce the defendant's sentence by no more than 15 percent. HOUSE AMENDMENT 2 states the offenses of criminal simulation, shoplifting and passing forged checks applies when the amount taken is less than \$1,000. Senate amendment 6 deletes all language after the enacting clause. Effective July 1, 2010, prohibits a judge from imposing sentencing alternatives of continuous confinement in a local jail or the Department of Correction (DOC) when sentencing a defendant convicted of a non-violent property offense as defined in the bill. Authorizes a judge to sentence the defendant to any of the other sentencing alternatives authorized by Tenn. Code Ann. § 40-35-104(c) including, but not limited to, periodic confinement, work release, community corrections, probation, pre-trial diversion, or judicial diversion. If the sentencing court determines the defendant has one or more prior convictions at the time the non-violent property offense as defined by the bill is committed or the defendant has violated the terms and conditions of the alternative sentence originally imposed, the defendant may be sentenced to a period of continuous confinement. Defines "prior conviction" to mean that the defendant serves and is released or discharged from, is serving, or on escape status from a separate period of incarceration or supervision for the commission of a felony offense prior to or at the time of committing an offense on or after July 1, 2010, that is listed in the bill. Prior conviction includes convictions under the laws of any other state, government or country, that if committed in this state, would constitute a felony or if the elements of the offense are the same as the elements for a felony offense in this state. Defines "separate period of incarceration or supervision" as a sentence to any of the sentencing alternatives set out in Tenn. Code Ann. § 40-35-104(c) (3) - (9). Requires an offender convicted of the Class B felony offense of aggravated robbery to serve 85 percent of the sentence imposed by the

court less sentence reduction credits earned and retained. No sentence reduction credits shall reduce the sentence imposed by the court by more than 15 percent.

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

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

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

Other Status: Sent to governor 06/11/2010.

EDUCATION

SB 2198

Burks

[HB 2341](#)

Jones S.

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

Education of juveniles in detention. Requires the commissioner of education to include in the commissioner's annual report information on the education of juveniles in detention, including an estimate of the number of juveniles served yearly in detention facilities. Broadly captioned. (S: Burks; H: Jones S.)

Senate Co-Sponsors: Gresham; Marrero; Ford O.; Harper

Amendment: Senate amendment 1 deletes all language after the enacting clause of the original bill. Requires juvenile detention facilities and non-Department of Children's Services' facilities that have alternative education programs for the prevention of delinquency and rehabilitation of delinquent youth to send to the Department of Education (DOE) the number of youth served or detained, demographic and service delivery data including date of entry and exit for July 1, 2008, through June 30, 2010. Requires the information to be sent no later than August 31, 2010. Requires the DOE to give a report that includes this data and makes recommendations on a process to determine and direct the allocation of BEP funding to education youth in these facilities and a process to ensure proper transmission of grades and attendance records from local education agencies (LEAs) and these facilities. Requires the State Board of Education to develop or modify curriculum based standards, as needed, to make the education of children in such facilities consistent with those in LEAs.

Senate Status: Senate 04/12/2010 passed with amendment 1.

House Status: House passed 04/19/2010.

Other Status: Enacted as Public Chapter 0870 (effective 05/03/2010).

SB 2621

Tracy

HB 3200

Winningham

Extracurricular students: random drug testing. Establishes that students participating in extracurricular activities may randomly be tested for illegal drugs without individualized reasonable suspicion as long as previous legal requirements are followed. Requires LEAs testing students for drugs to create policies and procedures for assisting and counseling students testing positive for illegal drug use. (S: Tracy; H: Winningham)

Senate Co-Sponsor: Ketron

Amendment: Senate amendment 1 specifies that the student testing positive must receive an assessment to determine the severity of the problem, instead of merely counseling. Requires LEAs to provide notice of random testing to all parents or guardians of students involved in extracurricular activities, provide parents or guardians notice of when a student is selected, and receive a parent's or guardian's written consent to randomly test a student. Senate amendment 2 specifies that any records concerning a student who tested positive for drug use must be confidential student records. Clarifies that no student will be suspended or expelled solely due to the positive test. Requires the principal or school counselor of the school to provide certain referral information to the student and to the student's parents or guardian. Senate amendment 3 specifies that parents of students will be notified of such testing. Requires that parents give their consent that students be tested prior to any testing.

Senate Status: Senate 06/04/2010 passed with amendments 1, 2, and 3.

House Status: House passed 06/08/2010.

Other Status: Sent to the speakers for signatures 06/08/2010.

SB 3053

Woodson

HB 3133

Brooks, Harry

Public Chapter (PDF)

Copies of report cards for parents. Prohibits a parent whose parental rights have been terminated from being eligible to receive child's report card, notice of school attendance and other information from school concerning child. Broadly captioned. (S: Woodson; H: Brooks, Harry)

Amendment: Senate amendment 1 deletes all language after the enacting clause of the original bill. Changes the number of days that parties may appeal to the county chancery court in a teacher dismissal or suspension case from 20 to 30 days. House amendment 2 requires the commissioner of education to remain a member of the same committee, which increases the committee size to 16, if the individual resigns or retires and was initially appointed as chairperson.

Senate Status: Senate 05/13/2010 concurred in House amendment 2.

House Status: House 04/22/2010 passed with amendment 2.
Other Status: Enacted as Public Chapter 0925 (effective 05/26/2010).

FAMILY LAW

SB 2584

Black

[HB 2627](#)

DeBerry J.

Child custody placement: preponderance of the evidence. Specifies that the court's child custody placement recommendation must be based on a preponderance of the evidence. (S: Black; H: DeBerry J.)

Senate Co-Sponsor: Ford O.

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

Senate Status: Senate passed 02/22/2010.

House Status: House passed 04/07/2010.

Other Status: Enacted as Public Chapter 0820 (effective 07/01/2010).

SB 2585

Black

[HB 2628](#)

DeBerry J.

Award of child guardianship: court's required findings. Establishes that a court must find that the department of children's services or licensed child-placing agency has made reasonable efforts to place a child for adoption and the child's best interests are satisfied before awarding guardianship to a permanent guardian. (S: Black; H: DeBerry J.)

Senate Co-Sponsor: Ford O.

House Co-Sponsors: Hardaway; Jones U.

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

Senate Status: Senate passed 02/22/2010.

House Status: House passed 04/07/2010.

Other Status: Enacted as Public Chapter 0821 (effective 07/01/2010).

SB 2587

Black

[HB 2630](#)

DeBerry J.

Permanency plans for foster care. Makes certain changes regarding permanency plans for foster care, including giving parents the right to attend and participate in foster care permanency plan reviews and changing the suggested membership of foster care review boards. (S: Black; H: DeBerry J.)

Senate Co-Sponsors: Ford O.; Gresham

House Co-Sponsor: Hardaway

Amendment: House amendment 1 recommends that a pediatrician or other doctor also serve on foster care review boards.

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

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

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

Other Status: Enacted as Public Chapter 0842 (effective 07/01/2010).

SB 2701

Burchett

[HB 2765](#)

Tindell

Tennessee Second Look Commission. Creates the "Tennessee Second Look Commission." The commission shall review an appropriate sampling of cases involving a second or subsequent incident of severe child abuse in order to provide recommendations and findings to the general assembly regarding whether or not severe child abuse cases are

handled in a manner that provides adequate protection to the children of this state. Specifies that the commission shall report its findings to the general assembly by January 1, 2011 and annually thereafter. (12 pp.) (S: Burchett; H: Tindell)

Senate Co-Sponsor: Ketron

House Co-Sponsors: Armstrong; Harwell; Montgomery; Fincher

Amendment: House amendment 5 rewrites the bill; provides additional member appointment requirements; establishes rules dealing with vacant members; establishes new duties for the Tennessee Commission on Children and Youth; establishes new meeting and procedural requirements; establishes additional duties for certain government branches related to the commission; and allows the commission to investigate certain confidential information.

Senate Status: Senate passed 06/09/2010 under a suspension of the rules.

House Status: House 06/04/2010 passed with amendment 5.

Other Status: Sent to governor 06/16/2010.

[SB 2708](#)

Crowe

[HB 2780](#)

Hill

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

Order of protection - 12 hour protective period. Requires persons served with an order of protection to stay away for 12 hours from person requesting such order. (S: Crowe; H: Hill)

Senate Co-Sponsors: Ketron; Marrero; Ford O.; Burks

House Co-Sponsors: Hardaway; Towns; Coleman

Amendment: House amendment 1 deletes all language following the enacting clause. Authorizes the court to include the prohibition of a respondent from coming about the petitioner for any purpose in an order of protection. Requires the forms provided by the court clerk used to seek a protection order to be used exclusively in all courts exercising jurisdiction over orders of protection.

Senate Status: Senate passed 05/10/2010.

House Status: House 04/26/2010 passed with amendment 1.

Other Status: Enacted as Public Chapter 0959 (effective 07/01/2010).

[SB 2750](#)

Kelsey

[HB 2698](#)

Dennis

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

Modifying existing residential schedules in parenting plan. Restricts the modification of an existing residential schedule in a permanent parenting plan prior to a final hearing unless the parents agree to the modification or the court determines that such modification is in the best interest of the child. (S: Kelsey; H: Dennis)

Amendment: House amendment 2 clarifies that an existing residential schedule in a permanent parenting plan may be modified prior to a final hearing if the court finds that, absent the temporary modification, the child "will be subject to a likelihood of substantial harm," instead of "will be neglected, dependent, or abused. Specifies that the expedited hearing must be held within 15 days of the entry of the temporary

modification order.

Senate Status: Senate passed 05/06/2010.

House Status: House 03/11/2010 passed with amendment 2.

Other Status: Enacted as Public Chapter 0956 (effective 07/01/2010).

SB 2832

Berke

[HB 2778](#)

Hackworth

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

Family members intervention when adult abused or neglected.

Establishes that family members may obtain court orders to intervene when a relative adult is being intentionally abused, neglected, or exploited. Allows the court to grant the motion and order a number of certain actions, including an order of protection. Authorizes an order of protection violation to be a Class A misdemeanor. (S: Berke; H: Hackworth)

Senate Co-Sponsors: Overbey; Burks; Marrero; Harper; Ford O.; Barnes; Haynes J.

House Co-Sponsors: Maggart; Bass; Hawk; Shepard; Fincher; Stewart M.; Hardaway; Brooks, Kevin; Weaver; Montgomery; Swafford; Towns; Halford; Hensley; Lundberg; Shipley; Yokley; Favors; Brown; Dean; Ferguson; Cobb T.; Casada; Gilmore; McCormick; Ford D.; Johnson P.; Brooks, Harry; Cooper B.; White M.; Coley; Moore; Lollar; Sontany; Bone; Coleman; Evans; Carr; Barker; Williams K.; DeBerry L.; Fitzhugh; Richardson; McManus; Sargent; Eldridge; Fraley; Naifeh; Turner J.; Jones U.; Turner M.

Amendment: House amendment 1 excludes persons with mental retardation in custody of intermediate care facilities and persons receiving services from a provider of the Division of Intellectual Disability Services. Senate amendment 1 deletes all language after the enacting clause. Creates a process for a relative to petition the court for an order of protection, for a period of time not to exceed 120 days, for an adult who is unable to protect him or herself from abuse, neglect, exploitation, or misappropriation of real or personal property. Defines "relative" as a spouse, child, stepchild, adopted child, foster child, parent, stepparent, adoptive parent, or foster parent, sibling, half-sibling, step-sibling, grandparent, aunt, uncle, niece, or nephew. Exempts a person while in the custody of an intermediate care facility for persons with mental retardation (ICF/MR) or a person receiving residential services or other services from a community provider contracted with the Division of Intellectual Disabilities Services (DIDS) from the adults that a relative can petition the court for an order of protection under the provisions of the bill. Creates a Class A misdemeanor for an individual to violate the newly created order of protection.

Senate Status: Senate 04/15/2010 passed with amendment 1.

House Status: House 04/22/2010 concurred in Senate amendment 1.

Other Status: Enacted as Public Chapter 0898 (effective 05/10/2010).

SB 2999

Barnes
HB 3425
Litz

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

Adoption - ad for unknown father. Rescinds the requirement to run an advertisement or publication in order to seek out a biological father when there is no legal father when the adoption petition is filed. (S: Barnes; H: Litz)

Senate Co-Sponsors: Berke; Finney L.; Marrero

House Co-Sponsor: Hackworth

Senate Status: Senate passed 03/15/2010.

House Status: House passed 04/19/2010.

Other Status: Enacted as Public Chapter 0849 (effective 04/30/2010).

SB 3000

Barnes
HB 3424
Litz

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

DCS - reasonable effort to establish home for child. Deems DCS as having made a reasonable effort to establish a suitable home for a child if the department's efforts have exceeded the efforts of the child's parent or guardian. (S: Barnes; H: Litz)

Senate Co-Sponsors: Marrero; Ford O.; Berke

House Co-Sponsor: Hackworth

Amendment: House amendment 1 changes the language to make the legislation permissive.

Senate Status: Senate 04/22/2010 concurred in House amendment 1.

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

Other Status: Enacted as Public Chapter 0887 (effective 05/10/2010).

SB 3001

Barnes
HB 3423
Litz

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

Establishing of paternity. Prohibits a man from being a legal parent based solely on blood and DNA testing, but such testing may be a basis for a court of competent jurisdiction to establish paternity. (S: Barnes; H: Litz)

Senate Co-Sponsors: Stewart E.; Berke; Marrero

House Co-Sponsor: Hackworth

Amendment: House amendment 1 requires that a man, absent a court order or voluntary acknowledgement of paternity, is not a legal parent solely because of DNA evidence but allows DNA evidence to be used in court to establish paternity.

Judicial Council Comment: The Council observed that this bill states the current law relating to the establishment of paternity.

Senate Status: Senate 04/22/2010 concurred in House amendment 1.

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

Other Status: Enacted as Public Chapter 0888 (effective 05/10/2010).

SB 3002

Berke
HB 3427
Hackworth

Parent's legal and moral obligation to support child. Establishes that parents have a presumed legal and moral obligation to support their children. (S: Berke; H: Hackworth)

Senate Co-Sponsors: Barnes; Marrero; Ford O.; Burks

House Co-Sponsor: Litz

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

Amendment: House amendment 1 limits the application of the presumption that this bill will create to those parents who are 18 years of age and older.

Judicial Council Comment: The Judicial Council observed that this legislation may negate "willful" from the failure to support requirement that may serve as a grounds for termination of parental rights under current law, by imputing knowledge of the obligation to support on all parents. With regard to termination of parental rights cases, the constitutional right to parent is only able to be terminated upon clear and convincing proof and cannot be precluded by statute. The council noted that there is no legal obligation to provide support to a child where no paternity determination has been made. Similarly, no specific obligation to provide support exists where a court has not set an amount of child support to be paid. In all other cases, current case law states that there is an obligation to support a child, as does criminal statutory law. Finally, the judiciary would have difficulty in making a determination as to the meaning of a "moral obligation."

Senate Status: Senate 05/06/2010 concurred in House amendment 1.

House Status: House 04/26/2010 passed with amendment 1.

Other Status: Enacted as Public Chapter 0924 (effective 05/26/2010).

[SB 3003](#)

Berke

HB 3428

Hackworth

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

Administrative fee - termination of parental rights. Charges a \$50 administrative fee to defendants in a termination of parental rights case that are provided court-appointed counsel. Specifies that failure to pay will not result in loss of counsel but may be included as evidence of a lack of financial responsibility in such cases. (S: Berke; H: Hackworth)

Senate Co-Sponsor: Barnes

House Co-Sponsor: Litz

Amendment: Senate amendment 1 specifies that the failure on the part of a defendant to pay the fee may only be considered evidence of the defendant's fiscal responsibility in a determination of the best interest of the child. House amendment 3 deletes all language after the enacting clause. Requires the court to assess a \$50 administrative fee from persons who are appointed counsel in termination of parental rights cases. Failure to pay the administrative fee can be considered as evidence of the defendant's lack of financial responsibility in a determination of the best interest of the child.

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

House Status: House 05/20/2010 concurred in Senate amendment in Senate amendment 1.

Other Status: Enacted as Public Chapter 1003 (effective 06/02/2010).

[SB 3004](#)

Berke

Spouse of relative is legal relative. Adds the spouse of any legal relative to the definition of "legal relative" and "related" with regards to

HB 3426
Hackworth

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

adoption. (S: Berke; H: Hackworth)
Senate Co-Sponsors: Barnes; Stewart E.; Marrero
House Co-Sponsor: Litz

Senate Status: Senate passed 03/29/2010.
House Status: House passed 04/01/2010.
Other Status: Enacted as Public Chapter 0760 (effective 04/14/2010).

SB 3036
Faulk
[HB 2700](#)
Dennis

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

Visitation from grandparents. Creates a rebuttable presumption of substantial harm to a child if the child is not granted visitation with a grandparent who is the parent of the child's deceased parent. (S: Faulk; H: Dennis)

Senate Co-Sponsors: Overbey; Black; Ford O.; Haynes J.; Burks
House Co-Sponsor: Hardaway

Amendment: House amendment 1 adds a severability clause to this bill.

Senate Status: Senate passed 05/06/2010.
House Status: House 03/29/2010 passed with amendment 1.
Other Status: Enacted as Public Chapter 0957 (effective 05/26/2010).

SB 3100
Marrero
[HB 3142](#)
Bell

Civil penalty for violating order of protection. Increases the civil penalty for violating an order of protection from \$50.00 to \$500. (S: Marrero; H: Bell)

Amendment: House amendment 3 requires the respondent of an order of protection that has been extended pursuant to a hearing to execute a bond of not less than \$2,500 or deposit a sum of money in cash equal to the amount of the bond with the court clerk until the order of protection expires. Requires the court to enter an order declaring the bond to be forfeited if the respondent does not comply with the conditions of the bond. Grants the respondent 30 days.

Senate Status: Senate passed 06/04/2010.
House Status: House 06/04/2010 passed with amendment 3.
Other Status: Sent to governor 06/11/2010.

SB 3101
Marrero
[HB 3114](#)
Jones S.

Foster care services for persons aging out of program. Extends the age limit for a person to qualify for foster care from 18 years of age to 21 years of age if that person is enrolled in a secondary or tertiary educational institution, employment program, works for at least 80 hours per month, or is incapable of working due to a disability as long as that person was in foster care on his or her 18th birthday. (S: Marrero; H: Jones S.)

Amendment: House amendment 1 rewrites the bill. Names the bill Tennessee's Transitioning Youth Empowerment Act of 2010. Authorizes the department of children's services to develop a program to provide services on a voluntary basis to any person who is at least 18 but less

than 21 years of age and in the custody of the department at the time of the person's eighteenth birthday. Requires said person to be completing a secondary education, enrolled in a vocational institution, participating in a program or activity designed to aid in the removal of barriers to employment, employed for at least 80 hours a month, or incapable of education or employment due to a disability. Clarifies that the legislation is subject to the availability of funds. Authorizes the department to seek federal funding. House amendment 2 changes the advisory committee cited in the bill as amended from the specific sections of the code. Deletes language in Section Three of the bill as amended pertaining to the act being subject to the availability of funds. Repeals the act on June 30, 2010 and specifies that the repeal shall not affect any programs that provide services to youth who are transitioning from DCS custody to independence as adults and that are administered by DCS prior to the July 1, 2010 effective date.

Senate Status: Senate passed 06/04/2010.

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

Other Status: Sent to governor 06/11/2010.

SB 3130

Burks

[HB 3021](#)

Jones S.

Child abuse - multi-level response system. Removes district attorney general from those who shall form an independent local advisory board in any county in which the multi-level response system, which is used to protect children from abuse, is operating. (S: Burks; H: Jones S.)

Senate Co-Sponsor: Ketron

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

Senate Status: Senate passed 03/08/2010.

House Status: House passed 03/15/2010.

Other Status: Enacted as Public Chapter 0692 (effective 03/31/2010).

GOVERNMENT ORGANIZATION

SB 3181

Watson B.

[HB 3291](#)

Lynn

Sunset - TN court of the judiciary. Sunsets the Tennessee court of the judiciary on June 30, 2011. (S: Watson B.; H: Lynn)

Senate Co-Sponsors: Ketron; Bunch

Amendment: House amendment 1 extends the TN court of the judiciary to June 30, 2012. Senate amendment 1 changes the sunset date to June 30, 2011.

Conference Committee: Conference Committee Report on HB 3291 / SB 3181 has met and recommends that all amendments be deleted. The Committee further recommends that the following amendment (#1903932) be adopted, as follows: Rewrites the bill. Terminates the Tennessee Court of the Judiciary on June 30, 2012.

Senate Status: Senate 06/05/2010 adopted the conference committee report.

House Status: House 06/04/2010 adopted conference committee report.
Other Status: Sent to governor 06/11/2010.

JUDICIARY

[SB 2813](#)

Haynes J.

HB 3391

Moore

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

Circuit court judges to appoint more than one magistrate. Authorizes circuit court judges in Davidson County to appoint one or more persons to act as magistrates. Requires an appointed magistrate to have the same authority as the appointing judge or judges in the conduct of the proceedings. (S: Haynes J.; H: Moore)

House Co-Sponsor: Stewart M.

Amendment: Senate amendment 1 makes several non-substantive changes to the form of this bill. Senate amendment 2 clarifies that circuit courts exercising domestic or probate jurisdiction in Davidson County may appoint "masters" instead of "magistrates". House amendment 2 revises bill's provisions regarding directing the case or class of cases that may be heard in the first instance by a master. Provided the respective circuit court has jurisdiction in the manner provided for the hearing of cases by the court, the judge or judges for whom the master serves may direct that the master hear in the first instance the following types of cases: (1) Orders of protection (both hearings and reviews); (2) Motions to amend or alter orders of protection; (3) Child support petitions; (4) Signing appearance orders for child support cases; (5) Signing and hearing Show Cause orders for Temporary Support and Parenting Time; (6) Signing attachment orders; and (7) Temporary parenting plans. Provides that a master has the same authority as the judge to issue any and all process necessary in the types of cases the master is authorized by the above to hear. The master in the conduct of authorized proceedings has the powers of a trial judge.

Judicial Council Comment: The Judicial Council observed that this legislation may circumvent laws that require that a judge be elected. The authority provided to the magistrate created in this legislation is equal to that which is afforded the general sessions judge, while the method of review of decisions of the magistrate is inconsistent with the review procedures established for similarly situated judicial officials. The legislation contains internal inconsistencies with regard to review of the decision of a magistrate and appeals of the decision of a magistrate. The council noted that current law contains a method by which high volume or backlogged caseloads may be alleviated without creating a new position.

Senate Status: Senate 04/15/2010 concurred in House amendment 2.

House Status: House 04/07/2010 passed with amendment 2.

Other Status: Enacted as Public Chapter 0845 (effective 04/30/2010).

SB 2966

Indigent criminal defendant: collected proceeds go to court. Requires

Beavers
[HB 2690](#)
Coleman

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

the court clerk to pay any money collected from an indigent criminal defendant to the Administrative Office of Courts, instead of paying directly to the attorney of record. (S: Beavers; H: Coleman)

Amendment: House amendment 1 requires that if a defendant is ordered to pay some or all of his or her representation and the Administrative Office of the Courts receives funds paid pursuant to existing law that are greater than the total amount the appointed counsel has been reimbursed, then any excess funds must be paid to the appointed attorney.

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

Senate Status: Senate passed 03/29/2010.

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

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

[SB 2967](#)

Beavers
HB 3279
Coleman

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

Appellate review of trial court judgments. Specifies that an appeal of a final judgment of a writ of error coram nobis shall be filed to the court of criminal appeals, rather than the supreme court. (S: Beavers; H: Coleman)

Judicial Council Comment: The Judicial Council recognized that this legislation codifies existing practice and is merely intended to acknowledge the existence and jurisdiction of the Court of Criminal Appeals.

Senate Status: Senate passed 02/17/2010.

House Status: House passed 03/08/2010.

Other Status: Enacted as Public Chapter 0652 (effective 03/22/2010).

[SB 3030](#)

Faulk
HB 3103
Lundberg

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

Garnishments - service of summons upon employee. Disallows service of summons upon an employee of a garnishee on behalf of the garnishee when such employee is the debtor. (S: Faulk; H: Lundberg)

Amendment: Senate amendment 1 rewrites the bill. States that a summons served to an employee of the garnishee rather than the garnishee, and the employee is also the judgment debtor, the summons is void by the court for improper service.

Senate Status: Senate 03/01/2010 passed with amendment 1.

House Status: House passed 04/01/2010.

Other Status: Enacted as Public Chapter 0761 (effective 07/01/2010).

[SB 3059](#)

Election to void depositions. Specifies that an election to void a

Woodson
HB 3380
Sontany

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

deposition that was given in front of certain excluded parties must be made within a year of the deposition. (S: Woodson; H: Sontany)

Senate Co-Sponsor: Beavers

Amendment: House amendment 3 rewrites the bill. Defines "employee" to be a person with a contractual relationship with a person or entity interested in the litigation's outcome. Requires that depositions must not be taken from such "employees," unless all parties have agreed otherwise. Senate amendment 2 specifies that this bill will not prohibit an attorney from providing reimbursement for court reporting services in any case where the attorney is not a litigant.

Judicial Council comment: It was reported to the Judicial Council that this bill is a caption bill. Therefore, the Council offered no comment.

Senate Status: Senate 05/24/2010 passed with amendment 2.

House Status: House 05/27/2010 concurred in Senate amendment 2.

Other Status: Enacted as Public Chapter 1016 (effective 07/01/2010).

[SB 3110](#)
Marrero
HB 3385
Sontany

Revises provisions of TN Court Reporter Act of 2009. Revises various provisions of the Tennessee Court Reporter Act of 2009. Clarifies that licensed court reporters are not required to be notary publics to record any court proceeding, administrative law proceeding, deposition or any other proceeding. Delays the implementation of the section of the Tennessee Court Reporter Act of 2009 that penalizes individuals for practicing as a court reporter without a license to January 1, 2011. Extends the grandfather clause one year from January 1, 2009 to January 1, 2010. (S: Marrero; H: Sontany)

Senate Co-Sponsors: Ketron; Beavers

House Co-Sponsors: Jones S.; Dennis; Casada; Weaver

Amendment: Senate amendment 1 deletes all language after the enacting clause. States that a licensed court reporter is not required to be a notary public to record any court proceeding, administrative law proceeding, deposition, or any other proceeding, and that transcripts taken by a licensed court reporter are not required to be notarized.

Exempts court reporters employed by the federal government from the licensure requirement. Extends the effective date from January 1, 2010 to January 1, 2011, that a court reporter practicing without a license will be subject to a civil penalty. States that all licenses expire on June 30 in the year of expiration and allows for a prorated fee for any license that is less than 24 months. Extends the date that a person engaged in court reporting may be eligible for licensure by grandfathering from July 1, 2009, to January 1, 2010. Decreases the maximum fine from \$1,000 to \$500 for practicing court reporting without a license. States the initial expenses of the Board of Court Reporting may be paid using state funds and reimbursed upon receipt of licensing fees. Expands the list of authorized persons who can take depositions to include a licensed court reporter. Senate amendment 2 exempts court reporting services related to

criminal procedures. Makes technical corrections. Allows the Tennessee board of court reporting to be composed of at least one official court reporter, whether employed by the state or not.

Senate Status: Senate 05/27/2010 passed with amendments 1 and 2.

House Status: House passed 06/08/2010.

Other Status: Sent to the speakers for signatures 06/08/2010.

SB 3589

Ketron

[HB 3300](#)

McCormick

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

Foreign judgments: defamation suits and recognition. Specifies that foreign judgments are inconclusive if the court lacks personal jurisdiction, subject matter jurisdiction, or if the court process is not impartial. Requires courts in this state to determine whether a defamation judgment in a foreign court meets the American and this state's standards of free speech and press before recognizing the foreign court's judgment. Broadly captioned. (S: Ketron; H: McCormick)

Senate Co-Sponsors: Gresham; Bunch; Southerland; Beavers; Johnson J.; Burks

House Co-Sponsors: Dunn; Bell; Shipley; Lundberg; Swafford; Weaver; McManus; Coley; Campfield; White M.; Lynn; Hensley; Fincher; Lollar; Towns; Turner M.

Amendment: House amendment 1 rewrites the bill and clarifies the definition of foreign courts to mean foreign to the United States instead of foreign to the state.

Judicial Council Comment: The Judicial Council expressed no concerns with this legislation.

Senate Status: Senate passed 04/22/2010.

House Status: House 03/25/2010 passed with amendment 1.

Other Status: Enacted as Public Chapter 0900 (effective 07/01/2010).

LOCAL GOVERNMENT

SB 2636

Black

[HB 2671](#)

Evans

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

Robertson County - education for judicial commissioners. Local Bill for Robertson County that exempts Robertson County appointed judicial commissioners from continuing education requirements required for judicial commissioners. (S: Black; H: Evans)

Amendment: Senate amendment 1 rewrites the bill. Authorizes counties in which judicial commissioners are selected by the General Sessions judge to, by a two-thirds majority vote, permit judicial commissioners to receive ten hours of continuing education under the supervision of the appointing General Sessions judge instead of through Judicial Commissioners Association of Tennessee or Tennessee Court Clerks Association conferences. House amendment 1 provides that in a county with judicial commissioners, a local judge could provide such training for judicial commissioners, subject to local government approval. House amendment 2 requires judicial commissioners appointed in Knox County

to be known as "magistrates".

Judicial Council Comment: The Judicial Council recognized that this legislation seeks to save expenses of a local government, specifically Robertson County, at a time where all governmental entities are seeking methods to reduce costs and expenses. However, the council noted that there are various types of persons who serve as judicial commissioners, including both attorneys and laypersons. The original legislation requiring this training was brought to the legislature by the Tennessee Judicial Commissioners Association in an effort to improve the quality of Commissioners' service. A recent Supreme Court opinion identified a judicial commissioner who testified that he had no idea what "probable cause" meant. The need for consistent minimum educational requirements for persons serving as judicial commissioners is of great importance.

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

House Status: House 05/20/2010 passed with previously adopted amendments 1 and 2.

Other Status: Enacted as Public Chapter 0989 (effective 06/02/2010).

PUBLIC FINANCE

SB 3779

Bunch

[HB 3360](#)

Campfield

Appropriation of funds denied for certain programs 2010-11.

Prohibits appropriations to certain program in FY 2010-2011, including the arts commission, public television grants, and earthquake study preparedness. Allocates savings to the department of mental health and developmental disabilities, the department of human services, and the department of correction. (S: Bunch; H: Campfield)

Joint Oversight Committee on Corrections: Obviously more money coming to the Department of Correction would be welcome and would benefit the department's budget in providing employee benefits and other costs associated with the confinement of felons.

Senate Status: Senate Finance deferred to next meeting.

House Status: Taken off notice in House Finance Budget Subcommittee 06/02/2010.

Other Status: Oversight Corrections Committee 02/22/2010 reviewed, comment adopted and released to full committee.

TAXES PROPERTY

[SB 2809](#)

Norris

HB 3259

McCord

Priority of liens on property. Gives first priority to perfected purchase-money security interests over any taxes assessed by the state, a county, or municipality, taxing district, or other local governmental entity. (S: Norris; H: McCord)

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

House Co-Sponsors: Shipley; Mumpower; Odom; Fitzhugh; Turner M.
Amendment: House amendment 1 rewrites the bill. Requires that any person claiming an interest in any property must receive a receipt in full for the person's taxes. Requires that the collecting official must be personally satisfied that the value attached is correct. Requires that personal property taxes withheld and paid by a secured party derives from the specific personal property's value and from no more than four tax years. Requires that a release of all personal property tax liens occurs when outstanding taxes, penalty, and interest are paid. Specifies that the secured party is released from all personal property tax liens when the secured party has received a writing stating that the owner does not appear on the personal property tax rolls or has satisfied all outstanding personal property taxes. Defines a "writing". Requires actions to enforce a collection by distraint and sale of personalty to commence within four years. Requires that any amount paid or collected from the secured party must reduce by the same amount the balance due by the taxpayer to the trustee or local authority.

Senate Status: Senate passed 05/24/2010.

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

Other Status: Enacted as Public Chapter 1007 (effective 06/03/2010).

TENNCARE

[SB 3087](#)

Burchett

[HB 3135](#)

Dunn

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

Calculating state's subrogation interest: requirements. Directs plaintiff's attorney to contact the commissioner of finance and administration's designee, and the designee is responsible for determining whether the state has a subrogation interest regarding certain TennCare settlements and judgments. (S: Burchett; H: Dunn)
Amendment: Senate amendment 1 requires TennCare to maintain a website, which must be updated bi-annually, that identifies the individual managed care organizations that have authorization to pursue the state's right of action in subrogation. Requires that the website must provide the appropriate manner for contacting the managed care organizations. Specifies that before the entry of the judgment or settlement in a personal injury case the plaintiff's attorney must notify and contact any MCOs which incurred medical expenses on behalf of a TennCare recipient plaintiff in order to determine if the state or any MCO has a subrogation interest. Requires any entity having a subrogation interest to respond to the plaintiff's attorney within 60 that such an interest exists or that additional time is necessary to determine the amount of the subrogation interest. Specifies that in no case shall an entity claiming a subrogation interest take longer than 120 days to determine the amount of the subrogation interest.

Senate Status: Senate 03/22/2010 passed with amendment 1.

House Status: House passed 03/31/2010.

Other Status: Enacted as Public Chapter 0776 (effective 01/01/2011).

TORT LIABILITY

[SB 3754](#)

Bunch

HB 3905

McCord

Duty of care not owed to trespasser. Specifies that an owner, lessee, or occupant of land does not owe a duty of care to a trespasser on such land and is not liable for any injury to a trespasser on such land, in including injury caused by the owner, lessee, or occupant's negligent conduct. (S: Bunch; H: McCord)

Senate Co-Sponsors: Gresham; Burks

Senate Status: Senate passed 04/19/2010.

House Status: House Civil Practice Subcommittee deferred to the call of the chair.

TRANSPORTATION VEHICLES

SB 2860

Faulk

[HB 2769](#)

Rich

Evidence obtained by use of radar device to prove speeding. Provides that evidence obtained by use of radar device cannot be used in evidence in any judicial or administrative proceeding to prove speed of vehicle unless the operator was certified to properly use the device by a recognized organization in the field. (S: Faulk; H: Rich)

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

House Co-Sponsors: Hardaway; Brown; Favors

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

Senate Status: Senate passed 03/17/2010.

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

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

[SB 2900](#)

McNally

HB 3543

Maddox

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

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

Senate Co-Sponsor: Ketron

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

a BADT must be collected.

Senate Status: Senate passed 05/24/2010.

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

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

SB 2965

Beavers

[HB 2768](#)

Shipley

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

DUI offenders and interlock devices. Requires certain DUI offenders to operate only a motor vehicle that is equipped with a functioning ignition interlock device. (S: Beavers; H: Shipley)

Senate Co-Sponsors: Black; Faulk; Southerland; Norris; Watson B.; Tracy; Yager; Gresham; Woodson; Crowe; Burks; Herron

House Co-Sponsors: Cobb T.; Weaver; Hill; Lundberg; Carr; Lynn; Watson E.; Mumpower; West; Bell; Lollar; Casada; Halford; Hensley; Dean; Cobb J.; White M.; Todd; Rich; Eldridge; Johnson P.; Maggart; Towns; Campfield; Fraley; Faulkner; Matheny; McManus; Brooks, Kevin; Tidwell; Evans; Shepard; Williams K.; Montgomery; Haynes R.; Hawk; Harwell; Jones S.; Matlock; Johnson C.; Brooks, Harry; Dunn; Roach; Sargent; Marsh; Harrison; McDaniel; Coley; Ramsey B.; Floyd; Dennis; Coleman; Barker; Gilmore; Winningham; McDonald; Yokley; Ford D.; Harmon; McCormick

Amendment: Senate amendment 2 rewrites the bill. Requires a person with a blood alcohol content of .15 percent or higher, accompanied by a minor, or involved in a traffic accident to only operate a motor vehicle with an ignition interlock device. Mandates that drivers convicted of DUI that also violated the implied consent law to install an IID if a violation has occurred for implied consent in the past five years, underage driving while impaired, violation of the open container law, or reckless driving due reduced from a DUI charge. Authorizes the court to issue a restricted license for those eligible with an installation of an IID. Sets limits for the amount an IID provider can charge. (22 pp).

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

House Status: House passed 05/10/2010.

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

[SB 3044](#)

Tracy

HB 3267

Harmon

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

Regulation of traffic offenses by municipalities. Allows municipalities to adopt any provisions of the law included in the rules of the road for local enforcement, changing law's reference to 55-8-101 and 55-8-180 to any provision of chapter 8 in title 55. (S: Tracy; H: Harmon)

Senate Status: Senate passed 05/06/2010.

House Status: House passed 03/22/2010.

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

[SB 3121](#)

Faulk

DUI - violations of implied consent law. Requires general sessions to hear cases regarding implied consent laws in DUI arrests rather than

HB 3282
Coleman

having the cases heard at the same time and in the same court as the DUI charge. (S: Faulk; H: Coleman)

House Co-Sponsors: Rich; Bass; Lundberg; Watson E.; Coley; Matheny; Todd; Fincher

Amendment: Senate amendment 3 authorizes the court disposing of a violation to order the Department of Safety to reinstate a person's suspended driver license if the implied consent violation and the offense for which the driver was arrested resulted from the same incident and the offense is dismissed upon a finding that the law enforcement officer lacked sufficient cause to make the initial stop of the driver's vehicle. Senate amendment 4 clarifies that if a person is found to have violated the implied consent law in such a manner and is convicted of a DUI for the same offense, that the individual's license will only be suspended for a period imposed by the court for the DUI. House amendment 1 deletes the language "made at the same time and by the same court as the court disposing of the offense for which the driver was placed under arrest" and substitutes instead the language "made at the driver's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, unless the refusal is a misdemeanor offense in which case the determination shall be made by the court which determines whether the driver committed the offense; however, upon the motion of the state, the determination may be made at the same time and by the same as the court disposing of the offense for which the driver was placed under arrest". Requires the period of license suspension for a violation of this section to run consecutive to the period of license suspension impose following a conviction.

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

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

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

Other Status: Sent to governor 06/11/2010.

WORKERS COMPENSATION

SB 3731

Handling future medicals after judgment or settlement. Establishes a

Haynes J.
[HB 3582](#)
Coleman

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

procedure for handling disputes involving future medical care and treatment, medical services, or medical benefits, or both, in a workers' compensation case after judgment or settlement. Permits the employee or the employer, or the attorney for the employee or employer, to request assistance of a workers' compensation specialist by filing with the Division of Workers' Compensation a form prescribed for that purpose. Provides that if the employer does not agree to provide the medical care and treatment at issue, the specialist will enter an order as to whether the employer will provide medical care and treatment, medical services or medical benefits, or both, and if so, the specific medical care and treatment, medical services or medical benefits, or both, that will be provided. Provides that if the request for assistance involved a request for medical care or treatment pursuant to a court judgment or decree following a trial of the underlying workers' compensation claim, either the employer or the employee may appeal the specialist's order to the original court that issued the judgment or decree. Provides that if the request for assistance involved a request for medical care and treatment pursuant to a settlement, the aggrieved party may request administrative review. Contains broad caption. (S: Haynes J.; H: Coleman)

Senate Co-Sponsor: Ketron

Amendment: Senate amendment 1 adds to the end of Section 1 that under the authority granted to a court, when considering a request for enforcement of the subdivision concerning an appointed workers' compensation specialist, a court may award attorney fees and other reasonable costs as set by the court. House amendment 2 allows the specialist the authority to award attorney fees including court reporter expenses and expert witness fees.

Workers' Compensation Advisory Council comment: The Council finds that this bill treats unrepresented employees more fairly in workers' compensation disputes. Fills gaps in existing laws. The department should determine applicable fees.

Senate Status: Senate 04/12/2010 concurred in House amendment 2.

House Status: House 04/05/2010 passed with amendment 2.

Other Status: Enacted as Public Chapter 0858 (effective 04/30/2010).