

**Senate**

**Regular Calendar**

**Amendment Packet**

**Wednesday, April 24, 2019**

Amendment No. 1 to SB0174

Bell  
Signature of Sponsor

**AMEND Senate Bill No. 174\***

**House Bill No. 190**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 30-1-117, is amended by adding the following new subdivision (a)(10):

(10) The name, age, mailing address, relationship of the proposed personal representative to the decedent, a statement of any felony or misdemeanor convictions, and a statement of any sentence of imprisonment in a penitentiary.

SECTION 2. Tennessee Code Annotated, Section 30-1-111, is amended by deleting the section and substituting instead the following:

The clerk shall, before delivering the letters of administration or letters testamentary to the personal representative, administer to the representative, if an executor, an oath for performing the will of the deceased; and, if an administrator, an oath for the faithful performance of the administrator's duty; and, as to both, an oath that all statements in the petition about the representative are true and accurate and the representative is not disqualified from serving because of having been sentenced to imprisonment in a penitentiary as set forth in § 40-20-115 or otherwise. In the alternative, the oaths of the administrator or executor may be sworn or affirmed in the presence of a notary public and the acknowledgment of the representative's oaths, when certified by the notary public, shall be presented to the appropriate clerk.

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

**Senate State and Local Government Committee 1**

**Amendment No. 1 to SB0379**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 379**

**House Bill No. 108\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-1-502, is amended by adding the following language as new, appropriately designated subdivisions:

( ) "Employee" means an employee of any county, metropolitan government, municipality, or other political subdivision of this state;

( ) "Harassment" means two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that person's status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee's duties;

( ) "Instance of contact" means a direct communication or physical touching;

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 1, Part 5, is amended by adding the following language as a new section:

A county, municipal, or metropolitan government may, through its attorney, seek an injunction against a person who commits harassment against an employee. The injunction may be sought in any court of competent jurisdiction having the power to grant injunctions. Nothing in this section shall be construed to authorize any cause of action unrelated to a person's status as an employee.

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

Amendment No. 1 to SB0452

Bell  
Signature of Sponsor

**AMEND Senate Bill No. 452\***

**House Bill No. 513**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 17-5-201, is amended by deleting the section and substituting instead the following:

(a) As of the effective date of this act, the existing membership of the board of judicial conduct is vacated and reconstituted to consist of sixteen (16) members, selected as follows:

- (1) One (1) current or former trial judge, to be appointed by the Tennessee trial judges association;
- (2) Two (2) current or former general sessions court judges, to be appointed by the Tennessee general sessions judges conference;
- (3) One (1) current or former municipal court judge, to be appointed by the Tennessee municipal judges conference;
- (4) One (1) current or former juvenile court judge, to be appointed by the Tennessee council of juvenile and family court judges;
- (5) One (1) current or former court of appeals or court of criminal appeals judge, to be appointed by the Tennessee judicial conference;
- (6) Four (4) members, including three (3) who are neither a judge nor an attorney and one (1) who is a current or former judge, to be appointed by the speaker of the senate;

Amendment No. 1 to SB0452

Bell  
Signature of Sponsor

AMEND Senate Bill No. 452\*

House Bill No. 513

(7) Four (4) members, including three (3) who are neither a judge nor an attorney and one (1) who is a current or former judge, to be appointed by the speaker of the house of representatives; and

(8) Two (2) members who are attorneys licensed to practice law in this state, to be appointed by the governor.

(b) The board shall select:

(1) Its own chair from among the current or former judges serving on the board;

(2) A vice chair from among its non-judicial members; and

(3) One (1) member to serve as a direct liaison to the members of the general assembly.

(c)

(1) All appointments to the board must be made by July 1, 2019.

(2) In order to stagger the terms of the newly appointed board members, initial appointments must be made as follows:

(A) The members appointed under subdivisions (a)(1)-(3) serve initial terms of one (1) year, which expire on June 30, 2020;

(B) The member appointed under subdivision (a)(4), the members appointed under subdivision (a)(6), and one (1) of the members appointed under subdivision (a)(8) serve initial terms of two (2) years, which expire on June 30, 2021; and

(C) The member appointed under subdivision (a)(5), the members appointed under subdivision (a)(7), and one (1) of the members appointed under subdivision (a)(8) serve initial terms of three (3) years, which expire on June 30, 2022.

(3) Following the expiration of members' initial terms as prescribed in subdivision (c)(2), all terms are for three (3) years, to begin on July 1 and terminate on June 30, three (3) years thereafter.

(d) Each member of the board is eligible for reappointment to one (1) additional term. Vacancies on the court for an unexpired term must be filled for the remainder of the term in the same manner that original appointments are made but are for the duration of the unexpired term only.

(e)

(1)

(A) The chair shall divide the board into:

(i) Five (5) investigative panels of three (3) members each, with each investigative panel to be composed of at least one (1) member who is a current or former judge; and

(ii) Three (3) hearing panels of five (5) members each, with two (2) hearing panels to each be composed of three (3) non-judicial members and two (2) members who are current or former judges, and one (1) hearing panel to be composed of two (2) non-judicial members and three (3) members who are current or former judges.

(B) The chair shall not serve as a permanent member of an investigative panel or a hearing panel but may serve as a member of a panel on a temporary basis to fill a vacancy.

(C) Membership on the panels may rotate in a manner determined by the chair; however, a member shall not sit on both the hearing and investigative panels for the same proceeding.

(2) A hearing panel has the duty and authority to rule on prehearing motions, conduct hearings on formal charges, and make findings, conclusions, and impose sanctions or dismiss the case.

(3)

(A) An investigative panel has the duty and authority to:

(i) Review the recommendations of disciplinary counsel after preliminary investigation and either authorize a full investigation or dismiss the complaint; and

(ii) Review the recommendations of disciplinary counsel after a full investigation and approve, disapprove, or modify the recommendations as provided in § 17-5-304.

(B) The investigative panel shall require a full investigation when a motion to dismiss a complaint fails to receive a unanimous vote from the panel and where a motion to authorize a full investigation passes by a majority vote of the panel.

(4) An attorney member of the board shall not sit on an investigative or hearing panel if the attorney has ever appeared before the judge against whom the complaint is filed.

(5)

(A)

(i) A current or former judge who serves on the board and is the subject of a full investigation by the board or is a party to a hearing before the board must take a temporary leave of absence

from the board pending the completion of such action, with the vacancy to be filled for the duration of the leave of absence only.

(ii) A citizen member of the board must recuse himself or herself to avoid any impropriety, appearance of impropriety, or conflict of interest relating to the person's duties as a board member and matters that may come before the board.

(B) A current or former judge whose conduct results in the board taking disciplinary action against the judge will result in the judge's automatic dismissal from the board, creating a vacancy to be filled by the appropriate appointing authority.

(C) If a member recuses himself or herself or is dismissed pursuant to this subdivision (e)(5) all board matters may be heard by the remaining members of the board or, at the option of the members, a temporary replacement may be designated from the board by a majority vote of such members to sit on any investigative or hearing panel the recused or dismissed member was on.

(f) The appointing authorities, in making their appointments, shall strive to ensure the makeup of the board reflects the diversity of persons in Tennessee.

SECTION 2. Tennessee Code Annotated, Section 17-5-206, is amended by deleting the language "presiding judge" wherever it appears and substituting instead the word "chair".

SECTION 3. Tennessee Code Annotated, Section 17-5-207(e), is amended by deleting the subsection and substituting instead the following:

(e)

(1) The board shall adopt by rule a formal records retention policy and shall review such policy on an annual basis to determine if changes should be made.

(2)

(A) Notwithstanding any law or administrative rule to the contrary, the general assembly shall have limited access to board records as authorized under this subdivision (e)(2).

(B) The speaker of the senate and the speaker of the house of representatives shall each appoint two (2) members of the majority party and one (1) member of the minority party from each house who may request access to investigative reports and any other record compiled by the board pursuant to this chapter.

(C) The members appointed under subdivision (e)(2)(B) shall meet annually with the chair of the board and the investigative counsel to review all decisions relating to complaints for which formal charges have been filed based on the recommendation of an investigative panel.

(D) Any information obtained by or disclosed to a member of the general assembly pursuant to a request for records under this subsection (e) is confidential and is not a public record.

SECTION 4. Tennessee Code Annotated, Section 17-5-301(i)(7), is amended by deleting the subdivision and substituting instead the following:

The level of sanction, if any, previously rendered against other judges for the same conduct.

SECTION 5. Tennessee Code Annotated, Section 17-5-301, is further amended by adding the following language as a new subsection:

The legal analysis, findings of fact, and conclusions of law of a written opinion or order by the judge do not subject the judge to sanction.

SECTION 6. Tennessee Code Annotated, Section 17-5-304(a), is amended by adding the following language at the end of the subsection:

The disciplinary counsel shall commence the evaluation within thirty (30) days of the date of a request being submitted or a written complaint being filed.

SECTION 7. Tennessee Code Annotated, Section 17-5-304(b), is amended by deleting the language "pursuant to subdivision (c)(3), conduct a preliminary investigation" and substituting instead the language "pursuant to subdivision (c)(3), conduct a preliminary investigation. The preliminary investigation must be completed within sixty (60) days of the receipt of the complaint, unless the chair authorizes additional time for the completion of the investigation".

SECTION 8. Tennessee Code Annotated, Section 17-5-304(c)(3), is amended by deleting the subdivision and substituting instead the following:

(3) The investigative panel shall review the disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation, subject to the requirements of § 17-5-201(e)(3)(A)(ii). The investigative panel has thirty (30) days to act on the disciplinary counsel's recommendation. The disciplinary counsel has no authority to dismiss a complaint without the review of and approval by the investigative panel; however, a complaint must be dismissed if the investigative panel fails to act within the time prescribed in this subdivision (c)(3).

SECTION 9. Tennessee Code Annotated, Section 17-5-304(d)(1), is amended by deleting the language:

Within thirty (30) days after the investigative panel authorizes a full investigation, disciplinary counsel shall give the following notice to the judge by certified mail:  
and substituting instead the following:

Within thirty (30) days after the investigative panel authorizes a full investigation, the disciplinary counsel shall provide the judge with a copy of the complaint or complaints and shall give the following notice to the judge by certified mail:

SECTION 10. Tennessee Code Annotated, Section 17-5-304(d)(2), is amended by deleting the subdivision in its entirety.

SECTION 11. Tennessee Code Annotated, Section 17-5-304(e)(1), is amended by deleting the language:

Upon the conclusion of the disciplinary counsel's investigation, disciplinary counsel may recommend to the investigative panel any or any combination of the following:

and substituting instead the following:

A full investigation shall be completed within seventy-five (75) days of being authorized. Upon the conclusion of the disciplinary counsel's investigation, the disciplinary counsel may, in writing, recommend to the investigative panel any, or any combination, of the following:

SECTION 12. Tennessee Code Annotated, Section 17-5-307(c), is amended by deleting the subsection and substituting instead the following:

The judge shall have thirty (30) days from and after the receipt of written notice of the formal charge within which to file an answer with the board and serve a copy on the disciplinary counsel, along with discovery requests as provided by the Tennessee Rules of Civil Procedure.

SECTION 13. Tennessee Code Annotated, Section 17-5-308, is amended by adding the following as a new subsection (e):

(e) No costs related to a hearing or the disciplinary counsel's attorney fees resulting from such hearing may be taxed against the judge unless the sanction assessed requests removal from office.

SECTION 14. Tennessee Code Annotated, Section 17-5-308(a), is amended by deleting the language "to include the right to be represented by counsel" and substituting

instead the language "to include the right to be represented by counsel, the right to engage in discovery".

SECTION 15. Tennessee Code Annotated, Section 17-5-309(a), is amended by adding the following language at the end of the subsection:

The board shall issue its decision within sixty (60) days of the conclusion of the hearing.

SECTION 16. Tennessee Code Annotated, Section 17-5-309(b), is amended by adding the following language at the end of the subsection:

The board shall issue its findings of fact and conclusions of law within sixty (60) days of the conclusion of the hearing.

SECTION 17. For the purposes of vacating and reconstituting the board pursuant to Section 1, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2019, the public welfare requiring it.

Amendment No. 1 to SB0466

Bailey  
Signature of Sponsor

AMEND Senate Bill No. 466\*

House Bill No. 539

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-2-111, is amended by deleting the section and substituting instead the following:

(a) This chapter only applies to an individual if the individual performs services for an employer for wages and the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(1) **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(2) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(3) **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those

Amendment No. 1 to SB0466

Bailey  
Signature of Sponsor

AMEND Senate Bill No. 466\*

House Bill No. 539

services must necessarily be subject to a certain amount of control by the owner of the business;

(4) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(5) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(6) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(7) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(8) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker

spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(9) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(10) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(11) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(12) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(13) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(14) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(15) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(16) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor

indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(17) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(18) **Making service available to general public.** The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(19) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(20) **Right to terminate.** If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship.

(b) Notwithstanding subsection (a), this chapter does not apply to an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier doing an interstate business while engaged

in interstate commerce regardless of whether the common law relationship of master and servant exists.

SECTION 2. Tennessee Code Annotated, Section 50-3-103, is amended by deleting subdivision (7) and substituting instead the following:

(7) "Employee":

(A) Means an individual who performs services for an employer for wages under a contract of hire if the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(i) **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(ii) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(iii) **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(iv) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed

are interested in the methods used to accomplish the work as well as in the results;

(v) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(vi) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from

control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(xii) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An

employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(xiv) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(xvii) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1)

person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) **Making service available to general public.** The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) **Right to terminate.** If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship; and

(B) Includes minors, whether lawfully or unlawfully employed; persons in executive positions; and county, metropolitan, and municipal government employees;

SECTION 3. Tennessee Code Annotated, Section 50-7-207, is amended by deleting subdivision (b)(2)(B) and substituting instead the following:

(B) Any individual who performs services for an employer for wages if the services are performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(i) **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an

employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(ii) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(iii) **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(iv) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(v) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(vi) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates

that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and

schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(xii) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(xiv) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates

dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(xvii) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) **Making service available to general public.** The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) **Right to terminate.** If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship;

SECTION 4. Tennessee Code Annotated, Section 50-7-207(e), is amended by deleting subdivisions (1)-(3) and substituting instead the following:

(1) Services performed by an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier conducting an interstate business while engaged in interstate commerce are deemed to be an excluded service for the purposes of this section, regardless of whether the common law relationship of master and servant exists. However, this subdivision (e)(1) does not apply to services performed under subdivision (b)(3) or (b)(4); and

(2) It is the legislative intent that no elected official is eligible for benefits based upon service as an elected official.

SECTION 5. Tennessee Code Annotated, Section 50-9-103, is amended by deleting subdivision (9) and substituting instead the following:

(9) "Employee" means any individual who performs services for a covered employer for wages if the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(A) **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(B) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(C) **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(D) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(E) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(F) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(G) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(H) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(I) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(J) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the

services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(K) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(L) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(M) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(N) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(O) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(P) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(Q) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(R) **Making service available to general public.** The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(S) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(T) **Right to terminate.** If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the

worker wishes without incurring liability, then that factor indicates an employer-employee relationship;

SECTION 6. This act shall take effect January 1, 2020, the public welfare requiring it, and applies only to actions occurring on or after that date.

**Amendment No. 1 to SB0510**

**Watson  
Signature of Sponsor**

**AMEND Senate Bill No. 510**

**House Bill No. 419\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following as a new part:

**56-7-3501.** This part shall be known and may be cited as the "Tennessee Right to Shop Act."

**56-7-3502.** As used in this part:

(1) "Allowed amount" means the contractually agreed upon amount paid by a carrier to a healthcare entity participating in the carrier's network;

(2) "Commissioner" means the commissioner of commerce and insurance;

(3) "Comparable healthcare service":

(A) Means any shoppable non-emergency outpatient healthcare service or bundle of services; and

(B) Includes, but is not limited to, physical and occupational therapy services; radiology and imaging services; laboratory services; and infusion therapy;

(4) "Department" means the department of commerce and insurance;

(5) "Health plan" means health insurance coverage as defined in § 56-7-109;

(6) "Healthcare entity" means:

(A) Any healthcare facility licensed under title 33 or 68; and

(B) Any healthcare provider licensed under title 63 or 68;

**Amendment No. 1 to SB0510**

**Watson  
Signature of Sponsor**

**AMEND Senate Bill No. 510**

**House Bill No. 419\***

(7) "Insurance carrier" or "carrier" means a health insurance entity as defined in § 56-7-109; and

(8) "Shopping and decision support program" means the program established by a carrier pursuant to this part.

**56-7-3503.**

(a)

(1) Beginning upon approval of the next health insurance rate filing on or after January 1, 2020, a carrier offering a health plan in this state shall implement a shopping and decision support program that provides shopping capabilities and decision support services for enrollees in a health plan. Beginning upon approval of health plans offered on or after January 1, 2021, a carrier shall provide incentives for enrollees in a health plan who elect to receive a comparable healthcare service from a network provider that is covered by the health plan and that is paid less than the average allowed amount paid by that carrier to network providers for that comparable healthcare service before and after an enrollee's out-of-pocket limit has been met.

(2) Incentives, effective January 1, 2021, may be calculated as a percentage of the difference between the amount actually paid by the carrier for a given comparable healthcare service and the average allowed amount for that service. Incentives may be provided as a cash payment to the enrollee, a credit toward the enrollee's annual in-network deductible and out-of-pocket limit, or a

credit or reduction of a premium, a copayment, cost sharing, or a deductible.

(3) The shopping and decision support program must provide each enrollee with at least fifty percent (50%) of the carrier's saved costs for each comparable healthcare service resulting from shopping by the enrollee.

However, the shopping and decision support program may exclude incentive payments, credits, or reductions for services where the savings to the carrier is fifty dollars (\$50.00) or less.

(4) The average allowed amount must be based on the actual allowed amounts paid to network providers under the enrollee's health plan within a reasonable timeframe, not to exceed one (1) year.

(5) Annually, at enrollment or renewal, a carrier shall provide, at a minimum, notice to enrollees of the right to obtain information described in subdivision (a)(4) and the process for obtaining the information, and a description of how to earn the incentives. A carrier shall provide this notice on the carrier's website and in health plan materials provided to enrollees.

(b) An insurance carrier shall make the shopping and decision support program available as a component of all health plans offered by the carrier in this state.

(c) Prior to offering the shopping and decision support program to any enrollee, a carrier shall file a description of the shopping and decision support program established by the carrier pursuant to this section with the department. The insurance carrier has discretion as to the appropriate format for providing the information required and may customize the format in order to provide the most relevant information necessary to permit the department to determine compliance. The department may review the filing made by the carrier to determine if the carrier's shopping and decision support program complies with this section.

(d)

(1) Beginning January 1, 2022, a carrier shall annually file with the department for the most recent calendar year the total number of comparable healthcare service incentive payments made pursuant to this section, the use of comparable healthcare services by category of service for which comparable healthcare service incentive payments were made, the total incentive payments made to enrollees, the average amount of incentive payments made by service for the transactions, and the total number and percentage of a carrier's enrollees that participated in the transactions.

(2) Beginning in 2022 and by April 1 of each year thereafter, the commissioner shall submit an aggregate report for all carriers filing the information required by this subsection (d) to the commerce and labor committee of the senate and the insurance committee of the house of representatives. The commissioner may set reasonable limits on the annual reporting requirements on carriers to focus on the more popular comparable healthcare services.

**56-7-3504.**

(a) Beginning upon approval of the next health insurance rate filing on or after January 1, 2020, a carrier offering a health plan in this state shall comply with this section.

(b)

(1) A carrier shall make available an interactive member portal and a toll-free phone number that enables an enrollee to request and obtain from the carrier information on the average payments made by the carrier to network entities or providers for comparable healthcare services, as well as quality data for those providers, to the extent available.

(2) The member portal and toll-free phone number must allow an enrollee seeking information about the cost of a particular healthcare service to

estimate out-of-pocket costs applicable to that enrollee's health plan and compare the average allowed amount paid to a network provider for the procedure or service under the enrollee's health plan within a reasonable timeframe not to exceed one (1) year.

(3) The out-of-pocket estimate must provide a good faith estimate based on the information provided by the enrollee or the enrollee's provider of the amount the enrollee will be responsible to pay out-of-pocket for a proposed non-emergency procedure or service that is determined by the carrier to be a medically necessary covered benefit from a carrier's network provider, including any copayment, deductible, coinsurance, or other out-of-pocket amount for any covered benefit, based on the information available to the carrier at the time the request is made, and subject to further medical necessity review by the carrier. A carrier shall contract with a third-party vendor to comply with this subsection (b).

(4) A carrier shall provide the information described in this subsection (b) by the carrier's member portal and toll-free phone number even if the enrollee requesting the information has exceeded the enrollee's deductible or out-of-pocket costs according to the enrollee's health plan. Existing transparency mechanisms or programs that estimate out-of-pocket costs for enrollees still within their deductible qualify under this section as long as those mechanisms or programs continue to disclose the estimated average allowed amount even after an enrollee has exceeded the enrollee's deductible as well as any estimated out-of-pocket cost.

(c) Nothing in this section prohibits a carrier from imposing cost-sharing requirements disclosed in the enrollee's policy, contract, or certificate of coverage for unforeseen healthcare services that arise out of the non-emergency procedure or

service or for a procedure or service provided to an enrollee that was not included in the original estimate.

(d) A carrier shall notify an enrollee that the provided costs are estimated costs, and that the actual amount the enrollee will be responsible to pay may vary due to unforeseen services that arise out of the proposed non-emergency procedure or service.

**56-7-3505.**

At the request of a patient, a healthcare entity shall provide a copy of an order for a comparable healthcare service within two (2) business days of the request.

**56-7-3506.**

The state insurance committee, created by § 8-27-201, shall publish a report no later than January 1, 2020, on examples of shared savings incentive programs that directly incentivize current enrollees and retirees to shop for lower cost care in other states and consider implementation of such a program in this state. The state insurance committee may implement such a program as part of the next open enrollment period if it is believed to be cost effective. The state insurance committee shall share the report in writing to the government operations committees in both the senate and house of representatives.

**56-7-3507.**

The commissioner is authorized to promulgate rules as necessary to implement this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

**56-7-3508.**

Except for § 56-7-3506, and notwithstanding § 56-7-1005, this part does not apply to:

- (1) Any group insurance plan offered under title 8, chapter 27;

(2) Any managed care organization contracting with the state to provide insurance through the TennCare program or the CoverKids program; or

(3) Any plan described in Section 1251 of the federal Patient Protection and Affordable Care Act (42 U.S.C. § 18011) and Section 2301 of the federal Health Care and Education Reconciliation Act.

**56-7-3509.**

Notwithstanding this part, the total value of incentives offered to any one (1) enrollee must not exceed six hundred dollars (\$600) in any year.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2020, the public welfare requiring it, and shall apply to all health plans entered into or renewed on or after that date.

**Senate Commerce and Labor Committee 1**

**Amendment No. 2 to SB0510**

**Bailey  
Signature of Sponsor**

**AMEND Senate Bill No. 510**

**House Bill No. 419\***

by deleting the language "January 1, 2020" in § 56-7-3503(a)(1) in SECTION 1 and substituting the language "January 1, 2021".

**AND FURTHER AMEND** by deleting the word "shall" in the second sentence in § 56-7-3503(a)(1) in SECTION 1 and substituting the word "may".

**AND FURTHER AMEND** by deleting the word "must" in the first sentence in § 56-7-3503(a)(3) in SECTION 1 and substituting the word "may".

**AND FURTHER AMEND** by deleting the language "earn the incentives" in the first sentence in § 56-7-3503(a)(5) in SECTION 1 and substituting the language "earn any incentives".

**AND FURTHER AMEND** by deleting the language "January 1, 2020" in § 56-7-3504(a) in SECTION 1 and substituting the language "January 1, 2021".

**AND FURTHER AMEND** by deleting the language "January 1, 2020" in § 56-7-3506 in SECTION 1 and substituting the language "January 1, 2021".

**AND FURTHER AMEND** by deleting § 56-7-3508(1) in SECTION 1 and renumbering the remaining subdivisions accordingly.

**AND FURTHER AMEND** by deleting the language "January 1, 2020" in SECTION 2 and substituting instead the language "January 1, 2021".

**Senate State and Local Government Committee 1**

**Amendment No. 1 to SB0585**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 585**

**House Bill No. 621\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 12-4-107, is amended by designating the existing subsection (a) as subdivision (a)(1), and is further amended by adding the following new subdivision (a)(2):

(2) A city or county may procure surveying services by the means set forth under subdivision (a)(1).

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

Amendment No. 1 to SB0613

Bailey  
Signature of Sponsor

**AMEND Senate Bill No. 613\***

**House Bill No. 710**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Healthcare Billing Clarity Act."

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding the following new section:

(a) As used in this section:

(1) "Healthcare facility" means a hospital licensed under title 33 or 68;

(2) "Healthcare provider" or "provider" means a physician or other healthcare practitioner licensed or certified under title 63 to perform specialty healthcare services consistent with their scope of practice under state law; and

(3) "Specialty healthcare service" means anesthesia, pathology, radiology, and emergency services.

(b) A hospital shall not include in any billing statement to a patient any language that indicates or implies that a charge is for a specialty healthcare service that was rendered by a healthcare provider unless:

(1) The charge is described in a manner that provides the patient with sufficient information to identify the healthcare provider or the specialty healthcare service rendered; and

(2)

(A) The costs of any supplies, equipment, or other services rendered to the patient by or at the hospital are excluded from the amount

Amendment No. 1 to SB0613

Bailey  
Signature of Sponsor

AMEND Senate Bill No. 613\*

House Bill No. 710

charged for the healthcare provider or the specialty healthcare service rendered; or

(B) The billing statement includes language or is accompanied by a notice to inform the patient that billed amounts for services do not include charges for healthcare providers who are not employed by the healthcare facility, including anesthesiologists, emergency physicians, pathologists, and radiologists.

(c) If a healthcare provider includes a charge in a billing statement to a patient for the costs of any supplies, equipment, or other services provided by a healthcare facility, then the healthcare provider shall include with the billing statement language or an accompanying notice to inform the patient that those charges are included.

(d) A violation of subsection (b) or (c) constitutes a violation of this part as an unfair or deceptive act or practice affecting the conduct of trade or commerce and is subject to the penalties and remedies as provided by this part. Each act in violation of subsection (b) or (c) constitutes a separate violation of this part.

SECTION 3. This act shall take effect January 1, 2020, the public welfare requiring it, and applies to billing for services rendered on or after that date.

**Senate State and Local Government Committee 1**

**Amendment No. 1 to SB0618**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 618\***

**House Bill No. 815**

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 4-57-104(a), is amended by adding the following as new subdivisions:

(6) The commissioner of agriculture; and

(7) The dean of the Tennessee State University, college of agriculture cooperative extension program.

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

Amendment No. 1 to SB0620

Bell  
Signature of Sponsor

AMEND Senate Bill No. 620\*

House Bill No. 1005

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-3-502, is amended by deleting subsection (i) and substituting the following:

(i)

(1) Notwithstanding this section to the contrary, this subsection (i) governs manner of death determinations of death investigations for which suicide is suspected or determined to be the manner of death.

(2) If a county medical examiner suspects that suicide may be a potential manner of death, then the medical examiner shall consult the decedent's treating mental health professional or primary care physician, if known and reasonably able to be identified through the decedent's next of kin, prior to determination of manner of death.

(3)

(A) After inquiry by a county medical examiner pursuant to title 38, chapter 7, part 1, the medical examiner shall enter the manner of death and file the death certificate. If the manner of death is suicide and the next of kin disagrees with the manner of death determination, then the next of kin may contact the county medical examiner who performed the autopsy to request a meeting. The county medical examiner shall meet with the next of kin within thirty (30) calendar days of that initial contact by the requesting next of kin or, if more time is needed to gather documentation, on a mutually acceptable date. The meeting must be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party must present the reasons

Amendment No. 1 to SB0620

Bell  
Signature of Sponsor

AMEND Senate Bill No. 620\*

House Bill No. 1005

supporting their position with respect to the manner of death, including any relevant documentation.

(B) Within thirty (30) calendar days of the meeting with the next of kin, the county medical examiner shall make a written determination on the manner of death and notify the next of kin. The notification must address the next of kin's specific bases for disagreement, inform the next of kin of their right to seek reconsideration from the office of the state chief medical examiner (OSCME), and include information on how to request the reconsideration. The notification must also inform the next of kin of their right to seek judicial review.

(4)

(A) Within one hundred twenty (120) calendar days of the notification of the manner of death from the county medical examiner, the next of kin may request reconsideration from the OSCME in writing.

(B) Within fifteen (15) calendar days of receiving the reconsideration request, the OSCME shall notify the county medical examiner of the reconsideration request and request all records and documentation from the county medical examiner and the next of kin.

(C) The county medical examiner shall send the requested records and documentation to the OSCME within fifteen (15) calendar days of receiving the request.

(D)

(i)

(a) Upon receipt of the records and documentation, the state chief medical examiner shall convene a peer review panel to conduct the reconsideration.

(b) The peer review panel must consist of the state chief medical examiner and all chief medical examiners of the regional forensic centers except for the chief medical examiner of the regional forensic center for the region in which the autopsy was performed. The state chief medical examiner shall serve as chair of the peer review panel.

(c) The chief medical examiners of the regional forensic centers may each appoint a designee to serve on the peer review panel. The designee must be a forensic pathologist licensed in this state who is employed by the regional forensic center.

(d) The state chief medical examiner may distribute records and documentation to the peer review panel members by electronic means. The panel may meet remotely via teleconference or video conference.

(ii) The peer review panel shall complete the reconsideration within ninety (90) calendar days of the date the OSCME receives the records and documentation from the county medical examiner. If the initial review indicates a need for additional investigation, then the peer review panel may use an additional ninety (90) calendar days to finalize their findings and must send written notification to the next of kin that the extra ninety-calendar-day period is necessary.

(iii) Once the members of the peer review panel have completed the review of the records and documentation, the members shall vote on a manner of death determination. The state chief medical examiner shall

not vote except in the event of a tie vote among all other panel members. A manner of death that achieves a simple majority of all panel members prevails, at which time a reconsideration investigation is deemed complete.

(iv) The state chief medical examiner shall prepare a written report of the peer review panel's findings and decision and shall detail in the report the panel's reasoning for its decision and an explanation of any additional investigation that was done. The state chief medical examiner shall send a copy of the report to the next of kin and the county medical examiner within fifteen (15) calendar days of the completion of the investigation.

(5)

(A) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support the original manner of death determination made by the county medical examiner, then the next of kin may appeal that decision to a court of competent jurisdiction.

(B) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support a manner of death determination other than suicide, then the state chief medical examiner shall, no later than fifteen (15) calendar days after the date of the written report, amend the manner of death.

(6)

(A) Next of kin may terminate a reconsideration process requested pursuant to this subsection (i) at any time and for any reason by written notice to the OSCME of their intent to terminate the reconsideration.

(B) Next of kin may seek judicial review at any time during the reconsideration process following the receipt of the original death certificate by written notice to the OSCME of their intent to seek judicial review.

(7) By requesting reconsideration under this subsection (i), the next of kin authorizes release of any medical records, hospital records, investigative reports, or other documentary evidence of the deceased that the peer review panel deems necessary to complete the reconsideration.

(8) The department of health shall maintain a notice of decedent's next of kin rights with regard to this subsection (i) on its public website.

(9) As used in this subsection (i), "next of kin" means the person who has the highest priority pursuant to § 62-5-703.

(10) This subsection (i) applies only when the manner of death is suspected or determined to be suicide.

(11) A physician, who acts in good faith to comply with this subsection (i), is immune from individual civil liability in the absence of gross negligence or willful misconduct for actions authorized by this subsection (i).

(12) Unrelated parties have no liability for relying on the original death certificate, without regard to subsequent revision under this part.

(13) OSCME shall maintain statistics on the number of reconsideration requests, the number of manner of death determinations that are upheld or overturned, and the number of next of kin terminations of a reconsideration process before the issuance of final findings. The OSCME may also maintain additional information relative to the reconsideration requests that may assist in carrying out other functions of the office.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and applies to manner of death determinations made on or after that date.

**Senate Judiciary Committee 1**

**Amendment No. 1 to SB0641**

**Bell  
Signature of Sponsor**

**AMEND Senate Bill No. 641\***

**House Bill No. 1165**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 1, Part 1, is amended by adding the following as a new section:

If a court clerk chooses to process passport applications, the court clerk may take photographs for the passports and charge a reasonable fee for such service.

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

Amendment No. 1 to SB0665

Southerland  
Signature of Sponsor

**AMEND Senate Bill No. 665\***

**House Bill No. 1328**

by deleting all the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 69-9-227, is amended by adding the following new subsections:

(c)

(1) In maintaining information on the number and type of non-motorized vessels leased each day, the information shall be submitted under seal only for the use of the commission and the agency, and may only be used in the aggregate in agency reports and records.

(2) Each outfitter shall submit a regular report from the agency required records on May 1, October 1, and December 1, each year, and the report shall cover activity since the previous report.

(d) The commission may only assess a fee on a commercial outfitter by rule, and no such rule may take effect before July 1, 2021.

(e) The commission may consider the implementation of a multiple year permit system in consideration of the business history of long-term commercial outfitters.

(f) To insure that the views of the commercial paddle craft outfitter community are appropriately communicated as well as to assist the fish and wildlife commission in developing rules and regulations on commercial outfitting, there is created a commercial paddle craft advisory committee. The committee members shall be named by the wildlife resources executive director and shall include, but not be limited to, a majority of commercial paddle craft outfitters and other interested stakeholders. The committee shall also strive to develop non-regulatory strategies to address issues and to facilitate

**Senate Energy, Ag., and Nat. Resources Committee 1**

**Amendment No. 1 to SB0665**

**Southerland  
Signature of Sponsor**

**AMEND Senate Bill No. 665\***

**House Bill No. 1328**

access for all users. The members of the committee shall serve as volunteers and shall not be paid or reimbursed for time served as committee members.

SECTION 2. Tennessee Code Annotated, Section 69-9-227, is amended by deleting subdivision (b)(2) and substituting the following language:

(2) The regulatory authority granted under subdivision (b)(1) does not:

(A) Apply to commercial operations permitted by either the department of environment and conservation pursuant to title 11, chapter 8, or the United States forest service; or

(B) Preclude the department of environment and conservation from issuing permits, licenses, or leases for commercial activities occurring within its jurisdiction.

SECTION 3. This act shall take effect on July 1, 2019, the public welfare requiring it.

Amendment No. 1 to SB0699

Bell  
Signature of Sponsor

**AMEND Senate Bill No. 699**

**House Bill No. 676\***

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 31-1-103, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Title 31, is amended by adding the following new chapter:

**31-7-101. Short Title.**

This chapter shall be known and may be cited as the "Tennessee Disclaimer of Property Interests Act."

**31-7-102. Definitions.**

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

(1) "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made;

(2) "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made;

(3) "Disclaimer" means the refusal to accept an interest in or power over property;

(4) "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person;

(5) "Jointly held property" means property held in the name of two (2) or more persons under an arrangement in which all holders have concurrent

Amendment No. 1 to SB0699

Bell  
Signature of Sponsor

**AMEND Senate Bill No. 699**

**House Bill No. 676\***

interests and under which the last surviving holder is entitled to the whole of the property;

(6) "Person" means an individual; fiduciary; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government, governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an indian tribe or band, or alaskan native village, recognized by federal law or formally acknowledged by a state; and

(8) "Trust" means:

(A) An express trust, charitable or noncharitable, with additions thereto, whenever and however created; and

(B) A trust created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

**31-7-103. Scope.**

This chapter applies to disclaimers of any interest in or power over property, whenever created.

**31-7-104. Disclaimer Act supplement by other law.**

(a) Unless displaced by this chapter, the principles of law and equity supplement this chapter.

(b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this chapter.

**31-7-105. Power to disclaim; general requirements; when irrevocable.**

(a) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by state law or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(c) To be effective, the disclaimer must:

- (1) Be in writing;
- (2) Declare the disclaimer, and the extent thereof;
- (3) Describe the interest or power disclaimed; and

(4) Be signed either by:

(A) The person making the disclaimer; or

(B) Some person subscribing the name of the person making the disclaimer, in the person's presence and by such person's express direction in the presence of two (2) or more witnesses competent to witness a will under title 32.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when it is delivered or filed pursuant to § 31-7-112 or when it becomes effective as provided in §§ 31-7-106 - 31-7-111, whichever occurs later.

(f) A disclaimer made under this chapter is not a transfer, assignment, or release.

**31-7-106. Disclaimer of interests in property.**

(a) As used in this section:

(1) "Future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation; and

(2) "Time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(b) Except for a disclaimer governed by § 31-7-107 or § 31-7-108, the following rules apply to a disclaimer of an interest in property:

(1) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death;

(2) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general;

(3) If the instrument does not contain a provision described in subdivision (b)(2), the following rules apply:

(A) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist;

(B) If the disclaimant is an individual, except as otherwise provided in subdivisions (3)(C) and (3)(D), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution;

(C) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died immediately before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution; and

(D) If the disclaimed interest would pass to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes per stirpes to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died at the time of distribution; and

(4) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

**31-7-107. Disclaimer of rights of survivorship in jointly held property.**

(a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

(1) A fractional share of the property determined by dividing the number one (1) by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

**31-7-108. Disclaimer of interest by trustee.**

If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

**31-7-109. Disclaimer of power of appointment not held in a fiduciary capacity or other power not held in a fiduciary capacity.**

If a holder disclaims a power of appointment not held in a fiduciary capacity or other power not held in a fiduciary capacity, the following rules apply:

(1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable;

(2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power; and

(3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

**31-7-110. Disclaimer by appointee, object, or taker in default of exercise of power of appointment.**

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by a permissible appointee or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

**31-7-111. Disclaimer of power held in fiduciary capacity.**

(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

**31-7-112. Delivery or filing.**

(a) As used in this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (1) An annuity or insurance policy;
- (2) An account with a designation for payment on death;
- (3) A security registered in beneficiary form;
- (4) A pension, profit-sharing, retirement, or other employment-related benefit plan; or
- (5) Any other nonprobate transfer at death.

(b) Subject to subdivision (c)(1), delivery of a disclaimer may be affected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) A disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) If no personal representative is then serving, the disclaimer must be filed with a court having jurisdiction to appoint the personal representative.

(d) In the case of an interest in a testamentary trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, the disclaimer must be delivered to the personal representative of the decedent's estate; or

(3) If no trustee is then serving and no personal representative is then serving, the disclaimer must be filed with a court having jurisdiction to enforce the trust.

(e) In the case of an interest in an inter vivos trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, the disclaimer must be filed with a court having jurisdiction to enforce the trust; or

(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the settlor of a revocable trust or the transferor of the interest.

(f) In the case of an interest created by a beneficiary designation that is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(g) In the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable:

(1) The disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest; and

(2) The disclaimer of an interest in real property must be recorded in the office of the county register's office of the county where the real property that is the subject of the disclaimer is located.

(h) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(A) The holder of the power; and

(B) The fiduciary acting under the instrument that created the power; provided, however, if no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(A) The holder or personal representative of the holder's estate; and

(B) The fiduciary under the instrument that created the power; provided, however, that if no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d), or (e), as if the power disclaimed were an interest in property.

(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

**31-7-113. When disclaimer barred or limited.**

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) The disclaimant accepts the interest sought to be disclaimed;

(2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(3) A judicial sale of the interest sought to be disclaimed occurs.

(c) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

(d) Unless the power is exercisable in favor of the disclaimant, a disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise.

(e) A disclaimer is barred or limited if so provided by law other than this chapter.

(f) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

**31-7-114. Tax qualified customer.**

(a) Notwithstanding this chapter, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to title 26 of the United States code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this chapter.

(b) Tax qualified disclaimers must comply with the rules set forth in 26 U.S.C. § 2518, as now or hereafter amended, or any successor statute thereto, and the

regulations promulgated thereunder, including the nine-month time limitation set forth under 26 U.S.C. § 2518(b)(2).

**31-7-115. Recording of disclaimer.**

If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Except as otherwise provided in § 31-7-112(g)(2), failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

**31-7-116. Application to existing relationships.**

Except as otherwise provided in § 31-7-113, an interest in or power over property existing on the effective date of this chapter as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after the effective date of this chapter.

**31-7-117. Severability clause.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable.

SECTION 3. Tennessee Code Annotated, Section 34-1-101(7), is amended by deleting the subdivision in its entirety and substituting the following:

"Fiduciary" means a guardian, coguardian, conservator, co-conservator, or qualified trustee as defined in § 35-16-102(12)(A);

SECTION 4. Tennessee Code Annotated, Section 34-1-104(a), is amended by deleting the language "subsections (b) and (c)" and substituting instead "subsections (b)-(d)".

SECTION 5. Tennessee Code Annotated, Section 34-1-104, is amended by adding the following language as a new subsection:

(d) In a proceeding to determine letters of guardianship or conservatorship, the court shall be vested with the authority to direct any fund or part of the fund decreed to belong to a minor or person with a disability, or in which there is recovery in favor of a minor or person with a disability, into a trust created under the Tennessee Uniform Trust Code, compiled in title 35, chapter 15 with such fiduciary appointed upon order of the court according to this chapter.

SECTION 6. Tennessee Code Annotated, Section 34-1-115(a), is amended by deleting the first sentence in the subsection and substituting the following:

A fiduciary is limited in its investments to the investments permitted by title 35, chapter 3 unless estate funds or property, or both, are transferred to a trust created pursuant to the Tennessee Uniform Trust Code, compiled in title 35, chapter 15.

SECTION 7. Tennessee Code Annotated, Section 34-1-115, is amended by adding the following as a new subsection:

( ) If funds are transferred to a trust as referenced in § 34-1-115(a), the fiduciary and trust protector are relieved of requirements under title 34 where trust assets, investments, and their financial nature require public disclosure or filing upon public record. A certification of trust outlined under § 35-15-1013 may be filed with the clerk of the court to show such trust is created. Such trust must be governed and administered by a qualified trustee as permitted by title 35. Further, the court clerk with personal jurisdiction over the person with a disability or minor must be named trust protector of said trust with powers prescribed by §§ 35-15-1201 - 35-15-1206.

SECTION 8. Tennessee Code Annotated, Section 35-15-110, is amended by deleting the section and substituting the following:

(a) A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under this chapter, if the charitable organization, on the date the charitable organization's qualification is being determined, would be a qualified beneficiary under this chapter if such charitable organization were an individual beneficiary.

(b) The attorney general and reporter has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state if all of the interests in the trust that are for a charitable purpose, in the aggregate, on the date the attorney general and reporter's qualification is being determined, would cause an individual beneficiary to be a qualified beneficiary under this chapter if all of such interests were for the benefit of an individual beneficiary instead of for charitable purposes.

SECTION 9. Tennessee Code Annotated, Title 35, Chapter 15, Part 2, is amended by adding the following language as a new, appropriately designated section:

(a) If the trustee resigns, is removed, or upon the full or partial termination of the trust, a qualified beneficiary or successor trustee may petition the court to require the trustee transferring or distributing the trust to appear before the court for a final accounting. However, a successor trustee shall not have any obligation to petition the court to require the final accounting. The trustee transferring or distributing the trust may also petition the court to approve a final accounting relieving the trustee from liability for the period of its administration. The final accounting period shall begin from the latest of:

- (1) The date of acceptance of the trusteeship by the trustee; or
- (2) The end of the period since an accounting was last approved by the

court.

(b) The petition shall set forth:

- (1) The name and address of the trustee;

(2) The qualified beneficiaries of the trust; and

(3) The period that the accounting covers.

(c) The petition shall be served on each qualified beneficiary or their representative under part 3 of this chapter to the extent there is no material conflict of interest or on the trustee.

(d) Upon review of the trustee's final accounting and after considering any objections thereto and any evidence presented, the court may approve the final accounting or enter judgment granting appropriate relief. If no objection to the petition is filed within the time allowed by law after service, or if the parties consent, the petition may be approved without notice, hearing, or further proceedings. The final judgment of the court shall be binding on all parties.

(e) Upon approval of the petition, the trustee shall be relieved from liability for the period covered by the final accounting.

(f) Costs and expenses, including reasonable attorney's fees of the trustee, shall be taxed against the trust, unless otherwise directed by the court.

SECTION 10. Tennessee Code Annotated, Section 35-15-707, is amended by adding the following language as a new, appropriately designated subsection:

Prior to delivering the trust property within the trustee's possession to the co-trustee, successor trustee, or other person entitled to it, a trustee who has resigned or been removed shall have the right and authority to petition the court for approval of its accountings and a release and discharge from all liability related to such trust as allowed under Section 9.

SECTION 11. Tennessee Code Annotated, Section 35-15-817, is amended by deleting subsection (c) and substituting instead the following:

Notwithstanding subsections (a) and (b), any qualified beneficiary or trustee may petition the court for a final accounting covering a resigning or removed trustee's period

of administration or the period since an accounting was last approved by the court as allowed under Section 9.

SECTION 12. Tennessee Code Annotated, Section 35-15-1005, is amended by adding the following language as a new subsection:

(e) Notwithstanding subsections (a)-(c), no beneficiary, trustee, trust advisor, or trust protector may commence a proceeding against a trustee or former trustee for any matter covered by a final accounting approved by the court under Section 9.

SECTION 13. Tennessee Code Annotated, Title 35, Chapter 15, Part 11, is amended by adding the following as a new section:

(a) A provision in a trust requiring the arbitration of disputes, other than disputes of the validity of all or a part of a trust, except as provided in subsection (b), between or among the beneficiaries and a fiduciary under the trust, or any combination of such person or entities, is enforceable.

(b) A provision in a trust instrument requiring the arbitration of disputes relating to the validity of a trust is enforceable if all interested parties with regard to the dispute consent to the arbitration of the dispute.

(c) Unless otherwise specified in the trust, a trust provision requiring arbitration must be presumed to require binding arbitration under the Uniform Arbitration Act, compiled in title 29, chapter 5, part 3. If an arbitration provision that is enforceable under this section is governed under the Uniform Arbitration Act, the arbitration provision in the trust must be treated as an agreement for the purposes of applying the Uniform Arbitration Act.

SECTION 14. Tennessee Code Annotated, Section 35-15-302, is amended by deleting the section and substituting instead the following:

(a)

(1) To the extent there is no material conflict of interest between the holder of a power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power. Notwithstanding this section to the contrary, the holder of any general power of appointment may, regardless of whether there is a material conflict of interest between the holder of such general power of appointment and the persons represented with respect to the particular question or dispute, represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to such power.

(2) As used in this section, "general power of appointment" means a power, regardless of when exercisable, to appoint in favor of any one (1) or more of the following: such power holder, such power holder's creditors, such power holder's estate, and the creditors of the estate of such power holder.

(b) Notwithstanding subsection (a) to the contrary, if the holder, under the terms of the governing instrument, may only exercise such general power of appointment with the consent of another person, then the written consent of such other person is required in order for the holder of the general power of appointment to represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

SECTION 15. Tennessee Code Annotated, Section 35-15-411, is amended by deleting the section and substituting instead the following:

(a) During the settlor's lifetime, a noncharitable irrevocable trust may be modified or terminated by the trustee upon consent of all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust if the settlor does not object to the proposed modification or termination. The trustee shall

notify the settlor of the proposed modification or termination not less than sixty (60) days before initiating the modification or termination. The notice of modification or termination must include:

(1) An explanation of the reasons for the proposed modification or termination;

(2) The date on which the proposed modification or termination is anticipated to occur; and

(3) The date, not less than sixty (60) days after the giving of the notice, by which the settlor must notify the trustee of an objection to the proposed modification or termination.

(b) Following the settlor's death, a noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust.

(c) Following the settlor's death, a noncharitable irrevocable trust may be modified upon the unanimous agreement of the trustee and all qualified beneficiaries as provided under § 35-15-111 if such modification does not violate a material purpose of the trust. Additionally, a noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(d) Modification of a trust as authorized in this section is not prohibited by a spendthrift clause or by a provision in the trust instrument that prohibits amendment or revocation of the trust.

(e) An agreement to modify a trust as authorized by this section is binding on a beneficiary whose interest is represented by another person under part 3 of this chapter.

(f) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(g) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a), (b), or (c), as applicable, the modification or termination may be approved by the court if the court is satisfied that:

(1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) The interests of a qualified beneficiary who does not consent will be adequately protected.

(h) As used in this section, "noncharitable irrevocable trust" refers to a trust that is not revocable by the settlor with respect to which:

(1) No federal or state income, gift, estate, or inheritance tax charitable deduction was allowed upon transfers to the trust; and

(2) The value of all interests in the trust owned by charitable organizations does not exceed five percent (5%) of the value of the trust.

(i) Notwithstanding subsection (a), (b), or (c), the trustee may seek court approval of a modification or termination.

SECTION 16. Tennessee Code Annotated, Section 35-15-414, is amended by deleting subsection (a) and substituting instead the following:

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having either a total value less than one hundred thousand dollars (\$100,000) or for which the trustee's annual fee for administering the trust, as set forth in the trustee's published fee schedule, is five percent (5%) or more of the market value of the principal assets of the trust as of the last day of the preceding trust accounting year or the present market value of the principal assets of the trust if there is no applicable trust accounting for a preceding year may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

SECTION 17. Tennessee Code Annotated, Section 35-15-505(g), is amended by deleting the language "(g)(2)(C)" wherever it appears and substituting instead the language "(g)(2)(B)".

SECTION 18. Tennessee Code Annotated, Title 35, Chapter 15, is amended by adding the following as a new part:

**35-15-1301.**

(a) As used in this part:

(1) "Corporate trustee" means a Tennessee trust company, a Tennessee bank with trust powers, or a national bank with trust powers and with a physical presence in Tennessee;

(2) "Department" means the department of financial institutions;

(3) "Designated ancestor" means one (1) or more ancestors of the family designated as such in the entity's governing documents. A designated ancestor may be either living or deceased. If two (2) designated ancestors are designated, they must be or have been spouses to each other, and if more than such first two (2) designated ancestors are designated, each such additional designated ancestor must be or have been a spouse of either of the first two (2) designated ancestors;

(4) "Entity" means a corporation or a limited liability company;

(5)

(A) "Family member" means a designated ancestor and:

(i) An individual within the twelfth degree of lineal kinship of a designated ancestor;

(ii) An individual within the eleventh degree of collateral kinship of a designated ancestor;

(iii) A spouse or former spouse of a designated ancestor or of an individual defined as a family member in subdivision (a)(5)(A) or (B); and

(iv) An individual who is a relative of a spouse or former spouse specified in subdivision (a)(5)(C) who is within the fifth degree of lineal or collateral kinship of the spouse or former spouse.

(B) For purposes of determining whether a person is a family member as defined in this subdivision (a)(5):

(i) A legally adopted person shall be treated as a natural child of the adoptive parents;

(ii) A stepchild shall be treated as a natural child of the individual who is or was the stepparent of that child;

(iii) A foster child, or an individual who was a minor when an adult became the individual's legal guardian, shall be treated as a natural child of the adult appointed as foster parent or guardian;

(iv) A child of a spouse or former spouse of an individual shall be treated as a natural child of that individual;

(v) Degrees are calculated by adding the number of steps from a relevant designated ancestor through each individual to the family member either directly, in case of lineal kinship, or through a designated ancestor, in the case of collateral kinship; and

(vi) A person who was a family member at the time of the special purpose entity's engagement as trust protector or trust

advisor shall not cease to be a family member solely due to a death, divorce, or other similar event; and

(6) "Special purpose entity" means an entity that meets the requirements provided under subsection (b).

(b) A special purpose entity shall not be subject to chapters 1 and 2 of title 45 regulating fiduciary activity if:

(1) The entity is established for the exclusive purpose of acting as a trust protector or trust advisor as defined by § 35-15-1201, or any combination of such purposes;

(2) The entity is acting in such capacity solely under the terms of trusts in which the grantor or beneficiary is a family member, and under which a corporate trustee is serving as trustee;

(3) The entity is not engaged in trust company business as a private trust company under title 45, chapter 2, part 20, or with the general public as a public trust company;

(4) The entity does not hold itself out as being in the business of acting as a fiduciary for hire as either a public or private trust company;

(5) The entity files an annual report with the secretary of state and provides a copy to the department;

(6) The entity agrees to be subject to examination by the department at the discretion of the department solely for the purpose of determining whether the entity satisfies all requirements for qualification under this part;

(7) The entity agrees to pay the department the actual expenses of the examination at the time of the examination described in subdivision (b)(6);

(8) The entity does not use the word "trust" or "trustee" in the entity's name in any manner;

(9) The governing documents of the entity, as such governing documents may be amended from time to time, limit the entity's authorized activities to the functions permitted to a trust protector or trust advisor, or any combination of such functions, and limit the performance of those functions with respect to trusts in which a grantor or beneficiary of such trust is a family member with respect to a designated ancestor specifically named in the entity's governing documents;

(10) The entity does not act as a fiduciary other than as provided in this part;

(11) Within thirty (30) days of beginning operations as a trust protector or trust advisor, or any combination thereof, the entity notifies the department of:

(A) Its existence;

(B) Its capacity to act;

(C) The name of the corporate trustee for each separate trust for which such entity is engaged as a trust protector or trust advisor; and

(D) Pays a one-time initial fee of one thousand dollars (\$1,000);

and

(12) The entity submits annually to the department, no later than April 15 and no earlier than January 1:

(A) An annual fee of one thousand dollars (\$1,000);

(B) An updated list of the name of the corporate trustee for each separate trust for which such entity is engaged as a trust protector or trust advisor; and

(C) A certification to the department in which:

(i) The corporate trustee certifies that it is the corporate trustee of the applicable trust; and

(ii) The entity certifies that it is acting as a trust protector or trust advisor for the applicable trust, and that such entity's actions are in compliance with this part.

SECTION 19. Tennessee Code Annotated, Section 45-10-103(8)(C), is amended by deleting the language "45-10-115" and substituting instead the language "45-10-119".

SECTION 20. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee code commission is requested to include the headings in any compilation or publication containing this act.

SECTION 21. The act shall take effect upon becoming law, the public welfare requiring it.

**Senate Judiciary Committee 2**

**Amendment No. 2 to SB0699**

**Bell  
Signature of Sponsor**

**AMEND Senate Bill No. 699**

**House Bill No. 676\***

by deleting SECTION 13 in its entirety and renumbering the subsequent sections accordingly.

**Senate Judiciary Committee 3**

**Amendment No. 3 to SB0699**

**Bell  
Signature of Sponsor**

**AMEND Senate Bill No. 699**

**House Bill No. 676\***

by deleting section 31-7-105(f) in the amendatory language of Section 2.

**Senate State and Local Government Committee 1**

**Amendment No. 1 to SB0904**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 904**

**House Bill No. 1324**

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 41-2-145, is amended by adding the following as a new, appropriately designated subsection:

( ) Notwithstanding any law to the contrary, a county sheriff may create an inmate reentry education program. The successful completion of a reentry education program may allow an inmate to qualify for an educational sentence reduction credit of sixty (60) days if the inmate successfully receives a high school equivalency credential, high school diploma, vocational education diploma, or other postsecondary or industry-recognized certification. No credit will be given for any credential, diploma, degree, or certification unless the course of study, including the institution or entity through which the credential, diploma, degree, or certification is offered, has received the prior approval of the department of correction.

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

Senate State and Local Government Committee 1

Amendment No. 1 to SB0971

Dickerson  
Signature of Sponsor

AMEND Senate Bill No. 971\*

House Bill No. 1079

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 2, is amended by adding the following new section:

**2-2-142.**

(a) Supplemental voter registration drives that attempt to register one hundred (100) or more people to vote may be conducted by a person or organization that has not been designated by the county election commission under § 2-2-111, provided that the person or organization complies with the following conditions:

(1) Prior to conducting a voter registration drive, the person or agent of an organization shall:

(A) Provide the coordinator of elections with the name, address, and contact phone number of the person conducting the voter registration drive or the names, addresses, and contact phone numbers of the officers of the organization conducting the voter registration drive;

(B) Provide the names of the county or counties in which the voter registration drives will be held;

(C) Complete training, which is administered by the coordinator of elections, on the laws and procedures governing the voter registration process;

(D) File a sworn statement stating that the person or organization shall obey all state laws and procedures regarding the registration of voters; and

**Senate State and Local Government Committee 1**

**Amendment No. 1 to SB0971**

**Dickerson  
Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

(E) Ensure that individuals, whether volunteer or paid, who conduct voter registration drives for an organization have completed the training administered by the coordinator of elections; and

(2) The person or organization shall deliver or mail completed voter registration forms within ten (10) days of the date of the voter registration drive; provided, that if the date of the voter registration drive is within ten (10) days of the voter registration deadline, the completed forms must be delivered or mailed no later than the voter registration deadline. Any voter registration forms that are mailed to the election commission office must be mailed in a manner that provides a tracking number for the voter registration form and allows the sender or election commission to track the mailer.

(b) Any person or organization conducting a voter registration drive is prohibited from copying, photographing, or in any way retaining the voter information and data collected on the voter registration application, unless the applicant consents. However, the social security number provided on the voter registration application is confidential and must not be retained by any person other than election officials in their official capacity.

(c) No person or organization shall employ or compensate any person, nor shall any person receive any wages or compensation for registering voters based on the number of voters registered. Nothing in this section prohibits a person from being paid on an hourly or salaried basis to register voters.

(d) No person or organization shall establish quotas or a minimum number of completed voter registration forms to be collected by individuals conducting a voter registration drive.

(e) The coordinator of elections may adopt policies or procedures to effectuate the provisions of this section, including, but not limited to, a form on which the required information may be provided and certified by interested parties. The form adopted by the coordinator of elections may be provided electronically and the training administered may be web-based.

(f) Any person who intentionally or knowingly violates any provision of this section commits a Class A misdemeanor and each violation constitutes a separate offense.

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

**2-2-143.**

(a) If any person or organization conducts voter registration drives under § 2-2-142 and files one hundred (100) or more deficient voter registration applications with one (1) or more county election commissions, the person or organization is subject to a civil penalty under the procedures of this section.

(b) For purposes of this section, "deficient voter registration application" means any application lacking the information required under § 2-2-116 to process the voter registration application, except for the voter's social security number.

(c)

(1) The state election commission may impose a civil penalty for a violation of this section as provided in this subsection (c).

(2) The county election commission shall file notice with the state election commission, along with a copy of each voter registration application

deemed to be deficient and identifying information about the person or organization that filed the deficient applications.

(3) The state election commission shall review each voter registration application presented by the county election commission and shall make a finding on the number of deficient forms filed. Based on the finding, the state election commission may impose civil penalties for Class 1 and Class 2 offenses. The state election commission may combine the number of deficient forms filed by a person or organization in multiple counties when determining the total number of deficient forms filed.

(4) As used in this section:

(A) "Class 1 offense" means the filing of one hundred (100) to five hundred (500) deficient voter registration applications. A Class 1 offense is punishable by a civil penalty of one hundred fifty dollars (\$150), up to a maximum of two thousand dollars (\$2,000), in each county where the violation occurred; and

(B) "Class 2 offense" means the filing of more than five hundred (500) deficient voter registration applications. A Class 2 offense is punishable by a civil penalty of not more than ten thousand dollars (\$10,000) in each county where the violation occurred.

(5) For any offense, the state election commission shall send, by return mail, receipt requested, an assessment letter to the person or organization in a form sufficient to advise the person or organization of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. Failure to timely claim an assessment letter sent by return mail, receipt requested, constitutes acceptance of the assessment letter.

(6) To request a waiver, reduction, or to in any way contest a penalty imposed by the state election commission, a person or organization shall file a

petition with the state election commission. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) Penalties imposed under this section by the state election commission must be deposited into the general fund of the county or counties in which the violation occurred. When there are multiple counties involved, the penalty money must be divided pro rata based on the number of deficient registration applications submitted in each county.

(e) The state election commission may promulgate rules and procedures to implement the provisions of this section.

SECTION 3. Tennessee Code Annotated, Section 2-7-104(a), is amended by deleting the sixth sentence and adding the following sentence immediately before the last sentence:

All appointed poll watchers must have reached the age of seventeen (17) by election day and be residents of this state.

SECTION 4. Tennessee Code Annotated, Section 2-7-133(i), is amended by deleting the subsection and substituting instead the following language:

(i) A person attempting to be elected by write-in ballots shall complete a notice requesting such person's ballots be counted in each county of the district no earlier than the first day after the applicable qualifying deadline, but no later than twelve o'clock (12:00) noon, prevailing time, fifty (50) days before the general election. Such person must only have votes counted in counties where such notice was completed and timely filed. Write-in votes must not be counted for any statewide office. The notice must be on a form prescribed by the coordinator of elections and must not require signatures of any person other than the write-in candidate requesting ballots be counted. The coordinator of elections shall distribute such form to the county election commissions. Upon timely receiving the notice required by this subsection (i), the county election commission shall promptly inform the state coordinator of elections, the registry of

election finance, as well as all other candidates participating in the affected election. A write-in candidate may withdraw the notice by filing a letter of withdrawal in the same manner as the original notice was filed no later than the fifth day before the election.

SECTION 5. Tennessee Code Annotated, Section 2-7-133, is amended by deleting subsection (f).

SECTION 6. Tennessee Code Annotated, Section 2-8-113(c), is amended by deleting the subsection and substituting instead the following language:

(c) Any person trying to receive a party nomination by write-in ballots shall complete a notice requesting such person's ballots be counted in each county of the district no later than twelve o'clock (12:00) noon, prevailing time, fifty (50) days before the primary election. Such person must only have votes counted in counties where such notice was completed and timely filed. The notice must be on a form prescribed by the coordinator of elections and must not require signatures of any person other than the write-in candidate requesting ballots be counted. Write-in votes must not be counted for any statewide office. The coordinator of elections shall distribute such form to the county election commissions. Upon timely receiving the notice required by this subsection (c), the county election commission shall promptly inform the state coordinator of elections, the registry of election finance, as well as all other candidates participating in the affected election. A write-in candidate may withdraw the notice by filing a letter of withdrawal in the same manner as the original notice was filed no later than the fifth day before the election.

SECTION 7. Tennessee Code Annotated, Title 2, Chapter 9, is amended by adding the following as a new section to be appropriately designated:

**2-9-118.**

(a) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not offer or attempt to offer anything of value to a state election commission member; county election commission member; the secretary of

state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(b) An agent of a voting systems vendor shall not knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the voting systems vendor is responsible to a state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; or an employee of the state election commission, the county election commission, or the secretary of state.

(c) A state election commission member; county election commission member; secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not solicit or accept anything of value in violation of subsection (a).

(d) A voting systems vendor shall not make a loan of money to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, or to any other person on such person's behalf.

(e) A state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not solicit or accept a loan in violation of subsection (d).

(f) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not permit a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the

administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, to use the credit or a credit card of the voting systems vendor.

(g) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not pay the lodging expenses of a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(h) A state election commission member; county election commission member; the secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not accept travel expenses, meals, or lodging paid by a voting systems vendor or agent of the voting systems vendor.

(i) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not provide a gift, directly or indirectly, to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, county election commission, or the secretary of state; or an immediate family member of such persons, unless the gift is a novelty, such as a pin, button, pen, or similar small item or token routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.

SECTION 8. Tennessee Code Annotated, Title 2, Chapter 19, is amended by adding the following as a new section to be appropriately designated:

**2-19-145.**

(a)

(1) A public communication regarding voter registration status made by a political committee or organization must display a disclaimer that such communication is not made in conjunction with or authorized by the secretary of state.

(2) As used in this subsection (a), "public communication" includes communications made using newspapers or magazines, mass mailings, phone bank or text messages, electronic mail systems, or websites.

(b)

(1) A person or organization that establishes a website for voter registration purposes must display on such website a disclaimer that the voter registration is not made in conjunction with or authorized by the secretary of state.

(2) A person or organization that establishes a voter registration website and captures or collects the voter's information or data must disclose on the website the person's or organization's name and the purpose for which the voter information is captured or collected.

(3) Voter registration includes any method by which a voter may attempt to register to vote or change information on an existing voter registration.

(c)

(1) A person or organization that establishes a voter lookup website must display on such website a disclaimer that the voter lookup is not made in conjunction with or authorized by the secretary of state.

(2) A person or organization that establishes a voter lookup website and captures or collects the voter's information or data must disclose on the website the person's or organization's name and the purpose for which the voter information is captured or collected.

(3) Voter lookup includes any method by which a voter may check the voter's registration status or polling location.

(d) The disclaimer must be clear and conspicuous and prominently placed. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if its placement can be easily overlooked.

(e) Any person who violates this section commits a Class A misdemeanor and each violation constitutes a separate offense.

(f) This section does not apply to a county election commission website.

SECTION 9. This act shall take effect October 1, 2019, the public welfare requiring it.

**Senate State and Local Government Committee 2**

**Amendment No. 2 to SB0971**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by adding the following as a new subsection in § 2-2-142 in Section 1:

( ) This section does not apply to individuals who are not paid to conduct a voter registration drive or organizations that use only unpaid volunteers to conduct the voter registration drive.

**AND FURTHER AMEND** by designating subsection (e) as subsection (f) and adding the following as a new subsection (e) in § 2-2-143 in Section 2:

(e) This section does not apply to individuals who are not paid to conduct a voter registration drive or organizations that use only unpaid volunteers to conduct the voter registration drive.

**Senate State and Local Government Committee 3**

**Amendment No. 3 to SB0971**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by inserting the following new section immediately preceding the last section and renumbering the subsequent section accordingly:

SECTION \_\_\_\_ Tennessee Code Annotated, Title 2, Chapter 11, Part 1, is amended by adding the following as a new section:

The general assembly, by joint resolution, may remove a member of the state election commission for cause and may remove a member who becomes unqualified.

**Amendment No. 4 to SB0971**

**Dickerson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by adding the following as a new subsection in § 2-2-142 in Section 1:

( ) This section does not apply to individuals who are not paid to conduct a voter registration drive, organizations that use only unpaid volunteers to conduct the voter registration drive, or individuals who conduct a voter registration drive for their employers at which only employees of the employers participate.

**AND FURTHER AMEND** by designating subsection (e) as subsection (f) and adding the following as a new subsection (e) in § 2-2-143 in Section 2:

(e) This section does not apply to individuals who are not paid to conduct a voter registration drive, organizations that use only unpaid volunteers to conduct the voter registration drive, or individuals who conduct a voter registration drive for their employers at which only employees of the employers participate.

**Amendment No. 5 to SB0971**

**Yarbro  
Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by deleting § 2-2-142(f) from Section 1.

**AND FURTHER AMEND** by deleting § 2-19-145(e) from Section 8.

**AND FURTHER AMEND** by deleting SECTION 2 and renumbering the subsequent sections accordingly.

**Amendment No. 6 to SB0971**

**Watson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by deleting Sections 4 and 6 and by renumbering the remaining sections accordingly.

**Amendment No. 7 to SB0971**

**Gilmore**  
**Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by deleting subsection (f) from § 2-2-142 in Section 1 and by redesignating any subsequent subsections according.

**AND FURTHER AMEND** by deleting subsection (e) from § 2-19-145 in Section 8 and by redesignating any subsequent subsections accordingly.

**Amendment No. 8 to SB0971**

**Gilmore  
Signature of Sponsor**

**AMEND Senate Bill No. 971\***

**House Bill No. 1079**

by deleting § 2-2-143(a) in Section 2 and substituting instead the following:

(a) If a person or organization conducts voter registration drives under § 2-2-142 and files more than five hundred (500) deficient voter registration applications with one (1) or more county election commissions, the person or organization is subject to a civil penalty under this section.

**AND FURTHER AMEND** by deleting § 2-2-143(c)(3) and (4) in Section 2 and substituting instead the following:

(3) The state election commission shall review each voter registration application presented by the county election commission and shall make a finding on the number of deficient forms filed. Based on the finding, the state election commission may impose a civil penalty for a second or subsequent Class 1 offense. The state election commission shall not impose a civil penalty for a first Class 1 offense. The state election commission may combine the number of deficient forms filed by a person or organization in multiple counties when determining the total number of deficient forms filed.

(4) As used in this section, "Class 1 offense" means the filing of more than five hundred (500) deficient voter registration applications. A second or subsequent Class 1 offense is punishable by a civil penalty of up to two thousand dollars (\$2,000) in each county where the violation occurred.