House Civil Justice Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 649* **House Bill No. 1047**

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

SECTION 1. Tennessee Code Annotated, Section 37-1-902(b)(6), is amended by adding the following language to the end of the subdivision:

It is the intent of the general assembly that in appropriate circumstances vetted, trained, and approved safe baby court volunteers be utilized to the fullest extent possible.

SECTION 2. Tennessee Code Annotated, Section 37-1-902(c), is amended by deleting the subsection and substituting instead the following:

(c) As used in this part, "zero to three court program" and "safe baby court" means any court program created within this state that seeks to accomplish the goals stated in subsection (b) and that is established by a judge with jurisdiction over juvenile court matters. Except as provided in Section 6, a safe baby court has the same powers as the court that created it.

SECTION 3. Tennessee Code Annotated, Section 37-1-903(a), is amended by designating the existing language as subdivision (a)(1) and adding the following language as a new subdivision (a)(2):

(2) On January 1, 2020, there are established five (5) safe baby courts throughout this state. These courts are in addition to other zero to three court programs and safe baby courts established in this state prior to the effective date of this act. The establishment of additional safe baby courts is authorized as funding permits.

SECTION 4. Tennessee Code Annotated, Section 37-1-903, is amended by deleting subsection (b) and substituting instead the following:

(b)

(1) The administrative office of the courts, in consultation with the department of children's services and the council of juvenile and family court judges, shall determine the location of each program. The administrative office of the courts shall establish at least one (1) program within each of the three (3) grand divisions and shall seek to serve both rural and urban populations.

(2) The administrative office of the courts, the council of juvenile and family court judges, the department of children's services, and the department of mental health and substance abuse services are authorized to collaborate for the purpose of developing a strategy for safe baby court programs to expand services into adjacent counties where the judges of the juvenile courts of each county agree to share resources and the department of children's services has the staffing and resource capacity to provide coverage of safe baby courts in the adjacent counties.

SECTION 5. Tennessee Code Annotated, Section 37-1-903(c)(2), is amended by deleting the subdivision in its entirety and substituting instead:

(2) Collecting, reporting, and disseminating safe baby court program data, including an annual report to be submitted to the director of the administrative office of the courts, the commissioner of the department of mental health and substance abuse services, and the chairs of the judiciary committees of the house of representatives and the senate. The annual report must summarize the results of the programs' operations during the previous calendar year, including data on outcomes achieved in safe baby courts compared to the outcomes achieved by other courts exercising similar jurisdiction, any cost savings associated with the achievement of the goals stated in § 37-1-902, and program feedback from safe baby court judges. All zero to three court programs and safe baby courts established on or before January 1, 2018, shall submit program data and an annual report as described in this subdivision (c)(2) by February 1 of each year.

All safe baby courts established on January 1, 2020, shall submit program data and an annual report as described in this subdivision (c)(2) by February 1, 2021, and each following February 1;

SECTION 6. Tennessee Code Annotated, Title 37, Chapter 1, Part 9, is amended by adding the following new section:

A juvenile court matter that meets the safe baby court program criteria may be referred to a safe baby court program at any time during the pendency of the proceeding. If a matter is transferred to a safe baby court program, any permanency plan already in place must be scheduled for a review hearing by the court within thirty (30) days of the transfer to safe baby court.

SECTION 7. Tennessee Code Annotated, Title 37, Chapter 1, Part 9, is amended by adding the following new section:

This part does not preclude the ability of a safe baby court to apply for and receive matching monetary grants in addition to funds allotted to safe baby court programs from the department of children's services, the department of mental health and substance abuse services, and the administrative office of the courts.

SECTION 8. Tennessee Code Annotated, Title 37, Chapter 1, Part 9, is amended by adding the following new section:

A party's participation in a safe baby court program may be terminated at the discretion of the court if the party fails to comply with the program requirements.

SECTION 9. Tennessee Code Annotated, Title 37, Chapter 1, Part 9, is amended by adding the following new section:

To assist in the development of rules and regulations and to insure that the views of the safe baby court community are appropriately communicated to the commissioner of children's services, the director of the administrative office of the courts, and the commissioner of mental health and substance abuse services, there is created a safe baby court advisory committee. The committee members shall be named by the director

of the administrative office of the courts, the commissioner of children's services, and the commissioner of mental health and substance abuse services. The committee shall strive to develop non-regulatory strategies to address issues related to the operation of safe baby courts and to facilitate necessary changes. The members of the committee shall serve as volunteers and shall not be paid or reimbursed for time served as committee members.

SECTION 10. Section 2 of Chapter 366 of the Public Acts of 2017, is amended by deleting the language ", and shall cease to be effective January 1, 2022".

SECTION 11. Tennessee Code Annotated, Title 37, Chapter 1, Part 9, is amended by adding the following language as a new, appropriately designated section:

This part is deleted on January 1, 2025, and is no longer effective on or after such date.

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

House Civil Justice Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 590 **House Bill No. 626***

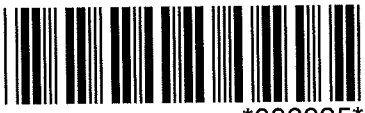
by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(7), is amended by adding the following new subdivision (B):

(i) If a person's requests to view public records constitute harassment, the records custodian charged with fulfilling the request may petition a court of competent jurisdiction for relief in fulfilling future public records requests from the person in accordance with subdivision (a)(7)(B)(ii).

(ii) A court may, upon finding clear and convincing evidence that a person's records requests constitute harassment, issue an order allowing the governmental entity to charge the requestor for future requests to view public records as though the requestor had requested to obtain copies for a period of one (1) year, and subject the requestor to subdivision (a)(7)(A)(vii).

(iii) A governmental entity that petitions a court for relief as provided in this subdivision (a)(7)(B) shall provide a written report to the office of open records counsel that includes a copy of the petition and any orders issued by the court in relation to the matter. The report must be filed no later than three (3) months after the petition is made. If further court action is taken after the report is filed, the governmental entity shall update the report to the office of open records counsel. The office of open records counsel shall include a summary of reports submitted under this subdivision (a)(7)(B)(iii) as part of its annual report required under § 8-4-603(b) and shall provide an annual summary of these reports to the advisory committee on open government who may use the reports to study the application of this section.



(iv) As used in this subdivision (a)(7)(B):

(*a*) "Harassment" means twelve (12) or more public records requests made to the same governmental entity within a period of one (1) year:

(*1*) That are made in a manner that would cause a reasonable person, including a records custodian or any staff of the governmental entity in control of the public records, to be seriously abused, intimidated, threatened, or harassed;

(*2*) For which the conduct in fact seriously abuses, intimidates, threatens, or harasses the person; and

(*3*) That are not made in good faith or for any legitimate purpose, or are made maliciously; and

(*b*) "Legitimate purpose" includes, but is not limited to, gathering information for the purpose of:

(*1*) Publication or broadcast, or otherwise distributing information to other persons by any means;

(*2*) Investigating or evaluating a legitimate claim or potential claim a person may have against a governmental entity, its agents, or employees; or

(*3*) Using the information for a commercial purpose.

SECTION 2. Tennessee Code Annotated, Section 10-7-503, is amended by adding the following as a new subsection:

(h)

(1) It is the intent of this subsection (h) to facilitate access to, and the request of, public records.

(2)

(A) No later than January 1, 2020, each state and local governmental entity subject to this chapter shall provide basic

government information on the governmental entity's website, if the governmental entity maintains a website.

(B) If a state or local governmental entity does not maintain a website, the governmental entity shall provide the basic government information to this state or to a county or municipality that maintains a website, or to an association or agency that maintains a website and was established for the benefit of local government officials or counties, cities, towns, or other local governments, and this state, the county or municipality, or the association or agency shall provide the basic government information on its website.

(3)

(A) Agendas must be available on the applicable website as required by this subsection (h) at least forty-eight (48) hours in advance of a meeting. However, the forty-eight-hour requirement may be waived in circumstances constituting an emergency.

(B) Agendas must clearly describe matters to be discussed or decided.

(4) A governing body may provide on the website the draft minutes of a meeting, clearly designated, in addition to minutes approved by a governing body. If a governing body chooses not to provide draft minutes on its website, it shall provide contact information for members of the public to request a copy of draft meeting minutes when approved minutes are not yet available.

(5) Public meeting documents must be available on the website forty-eight (48) hours in advance of the meeting. However, the forty-eight-hour requirement may be waived in circumstances constituting an emergency.

(6) The basic government information must be updated on the website when new information is available.

(7) The office of open records counsel is authorized to provide guidance to local governmental entities concerning compliance with this section.

(8) The advisory committee on open government shall provide a report and recommendations to the general assembly by January 1, 2021, regarding basic government information provided to citizens on government websites.

(9) As used in this section:

(A) "Basic government information" includes:

(i) A list and the contact information of elected officials and the members of each governing body;

(ii) Agendas of upcoming meetings of each governing body and of committees of each governing body, and the agendas of at least the twelve (12) most recent meetings;

(iii) Minutes of at least the twelve (12) most recent meetings of each governing body;

(iv) Public meeting documents that are provided in a board packet to members of each governing body in advance of an upcoming meeting and public meeting documents of the twelve (12) most recent meetings;

(v) The current annual budget document of the governmental entity and the annual budget document from the most recent five (5) years;

(vi) The comprehensive annual financial report, and other annual financial reports and audits of the governmental entity that are required to be produced by law from the most recent five (5) years, including additional summaries or information provided by a governmental entity that provide explanation and context to the financial reports;

(vii) The charter or other organizing or governing documents of the governmental entity and governing body, as applicable;

(viii) Policies, rules, ordinances, or resolutions governing the public meetings, public hearings, and public records of each governing body;

(ix) The contact information of a person or persons for more information about the public meetings, public hearings, and public records of a state or local governmental entity, including the name and telephone number of each such person; and

(x) The contact information and address of the records custodian of the state or local governmental body; and

(B) "Governing body" has the same meaning as defined in § 8-44-102, and includes the appropriate governing authority for the state or local governmental entity and governmental bodies created by the governing authority for the governmental entity.

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

House Civil Justice Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 561* **House Bill No. 1156**

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

SECTION 1. Tennessee Code Annotated, Section 16-2-506, is amended by deleting the language "The state is divided into thirty-one (31) judicial districts composed as follows:" and substituting instead the following:

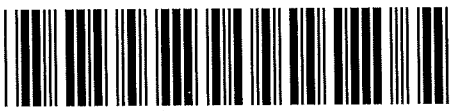
The state is divided into thirty-two (32) judicial districts composed as follows:

SECTION 2. Tennessee Code Annotated, Section 16-2-506, is amended by deleting subdivision (21) and substituting instead the following:

(21)

(A)

(i) Until September 1, 2022, the twenty-first judicial district consists of the counties of Hickman, Lewis, Perry, and Williamson. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-first judicial district in their respective capacities. In 1986, the qualified voters of the twenty-first judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512. Effective January 1, 1998, there is created an additional circuit court in the twenty-first judicial district. At the August 1998 general election, the qualified voters of the twenty-first district shall elect a person in accordance with § 16-2-505, to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serve as judge of the circuit court created by this section for an eight-year term;

(ii) Effective September 1, 2018, there is created an additional trial court in the twenty-first judicial district. The type of court, type of judge to preside over the court, and part of court shall be designated as provided in § 16-2-512. The governor shall appoint a person to serve as an additional judge or chancellor, and the person so appointed shall serve in that capacity until September 1, 2020, or until the person's successor is elected and qualified. At the August 2020 general election, the qualified voters of the twenty-first judicial district shall elect an additional judge or chancellor to serve until September 1, 2022, at which time the additional trial court shall be transferred to the newly created thirty-second judicial district and presided over by a trial court judge elected by voters of the thirty-second judicial district at the August 2022 general election.

(iii) It is the intent of the general assembly by adding an additional trial court in the twenty-first judicial district that the interests of public access to the courts and economy of judicial travel are best served by the presiding judge designating the new trial court created by subdivision (21)(A)(ii) to serve Hickman, Lewis, and Perry counties prior to being transferred to the thirty-second judicial district. Unless otherwise designated by the presiding judge to effectuate the duties enumerated in § 16-2-509(b), the remaining judges shall serve Williamson County;

(B)

(i) Effective September 1, 2022, the twenty-first judicial district consists of the county of Williamson. Except as provided in subdivision (21)(A)(iii), the incumbent trial court judges and the district attorney general currently residing in the county shall continue to serve the twenty-

first judicial district in their respective capacities until September 1, 2022. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of Williamson county shall elect four (4) trial court judges to fill the positions created by subdivision (21)(A)(i) for a full eight-year term.

(ii) Effective September 1, 2022, the additional trial court created by subdivision (21)(A)(ii) shall be transferred to the thirty-second judicial district.

(C) The district attorney general of the twenty-first judicial district is entitled to seven (7) assistant district attorney general positions, one (1) criminal investigator position, and one (1) additional assistant district attorney general position; provided, that the funding for such additional assistant district attorney general position is provided exclusively by the municipal and county governments that comprise the twenty-first judicial district;

SECTION 3. Tennessee Code Annotated, Section 16-2-506, is amended by adding the following as a new subdivision:

(32)

(A) Effective September 1, 2022, the thirty-second judicial district consists of the counties of Hickman, Lewis, and Perry. The incumbent trial court judge elected pursuant to subdivision (21)(A)(ii) shall continue to serve the twenty-first judicial district until September 1, 2022, at which time the additional trial court created by subdivision (21)(A)(ii) shall be transferred to the thirty-second judicial district and presided over by a trial court judge to be elected by voters of the thirty-second judicial district at the August 2022 general election. Every eight (8) years thereafter, the qualified voters of the thirty-second judicial district shall elect a judge or chancellor for a full eight-year term.

(B)

(i) Effective September 1, 2022, there is created the position of district attorney general for the thirty-second judicial district. At the regular August election in 2022, the qualified voters of the thirty-second judicial district shall elect a person to the position of district attorney general for a full eight-year term. The person elected to such position shall possess the same qualifications, powers, and duties and shall receive the same compensation, payable in the same manner, benefits, emoluments, and dignity of office as is required or provided by law for other district attorneys general.

(ii) On September 1, 2022, the office space and all state-owned furniture, equipment, supplies, books, and other such office property located in the Centerville or Hohenwald offices of the district attorney general of the twenty-first district and currently being used by the district attorney general of the twenty-first judicial district, or by one (1) of the district attorney general's assistants or investigators, shall be transferred for the use of the district attorney of the thirty-second judicial district. On and after such date, all such office space and other office property located in the Centerville and Hohenwald offices shall become the space for and property of the office of district attorney general for the thirty-second judicial district. Nothing in this subdivision (32)(B)(ii) prohibits the district attorney general from also establishing another office in the thirty-second judicial district.

(iii) By September 1, 2022, all records, files, papers, and other official documents pertaining to any pending or completed case arising out of any of the counties comprising the thirty-second judicial district shall be transferred to and become the property of the office of district attorney general for the thirty-second judicial district.

SECTION 4. Tennessee Code Annotated, Section 8-14-102(b)(1), is amended by adding the following new subdivision (C):

(i) Effective September 1, 2022, there is created the position of district public defender for the thirty-second judicial district. At the regular August election in 2022, the qualified voters of the thirty-second judicial district shall elect a person to the position of district public defender for a full eight-year term. The person elected to such position shall possess the same qualifications, powers, and duties and shall receive the same compensation, payable in the same manner, benefits, emoluments, and dignity of office as is required or provided by law for other district public defenders.

(ii) By September 1, 2022, all records, files, papers, and other official documents pertaining to any pending or completed case arising out of any of the counties comprising the thirty-second judicial district shall be transferred to and become the property of the office of district public defender for the thirty-second judicial district.

SECTION 5.

(a) This act shall not be construed to limit, terminate, or otherwise affect the term or future terms of office of any circuit court clerk, criminal court clerk, or clerk and master, subject to the residence requirement found in § 18-1-102. All such incumbents shall continue in office until the expiration of their respective terms of office and shall be eligible for reelection or reappointment. Nothing in this act shall be construed to require, permit or authorize the consolidation of the offices of clerk and master, circuit court clerk, or criminal court clerk or to place any clerk in a position of dominance over any other clerk.

(b) A clerk of court for the newly created thirty-second judicial district shall be elected at the regular August election in 2022, as provided in § 2-3-202, and shall serve a full four-year term, as provided in § 18-4-101, beginning September 1, 2022.

SECTION 6.

(a) All process issued after September 1, 2022, shall be returnable at the times and places fixed by local court rules promulgated in accordance with this act. All bonds and undertakings executed after September 1, 2022, shall be governed by local court rules, insofar as to appearance dates and other conditions relating to time and place.

(b) All cases, both civil and criminal except those that have previously been heard and taken under advisement, pending in any court in the twenty-first judicial district prior to September 1, 2022, shall as of that date be heard and determined in the appropriate court by the appropriate judge.

(c) Notwithstanding Tennessee Code Annotated, Title 16, Chapter 2, to the contrary, nothing in this act shall be construed to repeal, amend, or affect in any manner any jurisdiction granted to any local court by any public or private law.

SECTION 7. This act shall take effect upon becoming law, the public welfare requiring it.

House Civil Justice Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 1324 **House Bill No. 864***

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

SECTION 1. Tennessee Code Annotated, Section 29-13-102, is amended by adding the following language as a new, appropriately designated subdivision and redesignating the existing subdivisions accordingly:

( ) "Guardian" or "legal guardian" means a person having the legal authority to provide for the care, supervision, and control of a minor child as established by law or court order.

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

House Civil Justice Subcommittee Am. #1

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Amendment No._____

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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 4-29-239(a), is amended by deleting subdivision (43).

SECTION 2. Tennessee Code Annotated, Section 4-29-242(a), is amended by inserting the following language as a new, appropriately designated subdivision:

( ) Tennessee board of judicial conduct, created by § 17-5-201;

SECTION 3. Tennessee Code Annotated, Section 17-5-201, is amended by deleting the section and substituting instead the following:

(a) There is created the board of judicial conduct to consist of sixteen (16) members to be selected in the following manner:

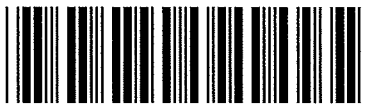
(1) One (1) current or former trial judge, to be appointed by the Tennessee judicial conference;

(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) Five (5) members of the public who are not salaried judges, one (1) of whom shall be an attorney who regularly practices in the courts of this state and four (4) of whom shall be neither a judge nor an attorney, to be appointed by the speaker of the senate; and

(7) Five (5) members of the public who are not salaried judges, one (1) of whom shall be an attorney who regularly practices in the courts of this state and four (4) of whom shall be neither a judge nor an attorney, to be appointed by the speaker of the house of representatives.

(b) The board shall select its own chair from among the current or former judges serving on the board. The board also shall select a vice chair and shall select 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) and the members appointed under subdivision (a)(6) serve initial terms of two (2) years, which expire on June 30, 2021; and

(C) The member appointed under subdivision (a)(5) and the members appointed under subdivision (a)(7) 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 three-year terms 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 are to 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) The chair shall divide the board into investigative panels of three (3) members and hearing panels of five (5) members. Each investigative panel is composed of two (2) public members and one (1) member who is a current or former judge. 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. 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 where the motion to dismiss the complaint fails to receive a unanimous vote from the panel and where the motion to authorize the 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.

(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 4. 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 deemed to be a public record.

SECTION 5. 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 the complaint was filed.

SECTION 6. 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). Disciplinary counsel must not have the authority to dismiss a complaint without the review of and approval by the investigative panel.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

House Civil Justice Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 1499 House Bill No. 1274*

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

SECTION 1. Tennessee Code Annotated, Section 8-6-109(b), is amended by adding the following language as a new subdivision:

( )

(A)

(i) To defend a local education agency (LEA) or an LEA's employees, in an employee's individual or official capacity, upon the LEA's or employee's formal request in writing, in any court or administrative tribunal arising out of an LEA's adoption of a policy or practice designed to protect the privacy of students from exposure to others of the opposite biological sex in situations where students may be in various states of undress by designating multi-person locker rooms, restrooms, or other facilities for use based only on one's biological sex. Such policy may make other appropriate accommodations for those who do not wish to use those facilities designated on the basis of biological sex;

(ii) In the event that the attorney general and reporter determines that the best interest of the state, or that of the LEA or employee, requires private counsel, the attorney general and reporter must notify the LEA or employee and the LEA or employee has the right to file for, and receive reimbursement of, defense costs in accordance with chapter 42 of this

title in the same manner as state employees. The reimbursement is limited to an amount deemed reasonable by the attorney general and reporter for the defense of similar actions by counsel of like experience and ability;

(iii) The duty to defend an LEA or LEA's employees pursuant to this subdivision (b)( ) does not apply to willful, malicious, or criminal acts or omissions or to acts or omissions done for personal gain;

(iv) As used in this subdivision (b)( ), "employee" or "employees" means an LEA's present or past director of schools, board members, teachers, or nonprofessional staff members; and

(B) Within existing resources, to advise the state board of education if the state board of education requests advice regarding the development of a model policy for use by an LEA that chooses to implement a policy on the use of multi-person locker rooms, restrooms, or other similar facilities for use based on one's biological sex.

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

House Civil Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 275* **House Bill No. 1032**

by deleting the word "or" at the end of § 26-6-204(c)(7) in SECTION 1.

AND FURTHER AMEND by deleting the period at the end of § 26-6-204(c)(8) in SECTION 1 and substituting the language "; or".

AND FURTHER AMEND by adding the following as a new subdivision § 26-6-204(c)(9) in SECTION 1:

(9) The foreign jurisdiction where the judgment was rendered would not give recognition to a similar judgment rendered in this state.

AND FURTHER AMEND by deleting the language "fifteen (15) years" in § 26-6-209 in SECTION 1 and substituting the language "ten (10) years".

House Civil Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 1263 **House Bill No. 350***

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

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, Part 25, is amended by adding the following as a new section:

(a) Whenever a county with a population of not less than twenty-seven thousand two hundred (27,200) nor more than twenty-seven thousand three hundred (27,300), according to the 2010 census or any subsequent census, acquires property at a tax sale, any non-governmental entity holding a vested and duly recorded contractual right to the payment of fees or assessments secured by such property retains such right; provided, that the non-governmental entity may only enforce such contractual rights against the county through the exercise of its lien rights against the property.

(b) Notwithstanding subsection (a), a county with a population of not less than twenty-seven thousand two hundred (27,200) nor more than twenty-seven thousand three hundred (27,300), according to the 2010 census or any subsequent census, is liable for the payment of the fees and assessments described in subsection (a) if the county makes actual use of the property purchased at the tax sale.

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

House Civil Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

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Signature of Sponsor

AMEND House Joint Resolution No. 140*

by deleting all language after the caption and substituting instead the following:

WHEREAS, the United States Supreme Court's 1984 ruling in *Chevron v. Natural Resources Defense Council* established the principle of *Chevron* deference, which requires a federal court to yield to an agency's interpretation of a statute; and

WHEREAS, since the development of *Chevron*, the Court has adopted additional forms of deference to an agency's interpretation of a regulation promulgated by the agency, including the principle of *Auer* deference, which requires a federal court to defer to an agency's interpretation of an ambiguous regulation promulgated by the agency; and

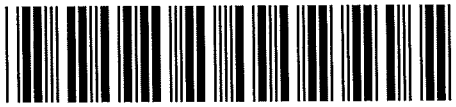
WHEREAS, in recent years, an increasing number of judges, policymakers, and scholars have advocated eliminating or narrowing *Chevron* deference; and

WHEREAS, the United States Congress has recently introduced legislation to abolish *Chevron* deference and require courts to review agency interpretations de novo; and

WHEREAS, prominent judges, including U.S. Supreme Court Justices Clarence Thomas and Brett Kavanaugh, have questioned *Chevron*'s intersection with the separation of powers doctrine; and

WHEREAS, legal scholars, litigants, and judges have also contested *Chevron*'s theoretical grounding, its provenance, and its impact on case outcomes, specifically its growing reach in the modern administrative state; and

WHEREAS, the case against *Auer* deference has focused on separation of powers and the dangerous consolidation of lawmaking and law-executing powers in the same government actor; and



WHEREAS, while on the 10th U.S. Circuit Court of Appeals, United States Supreme Court Justice Neil Gorsuch also addressed concerns with the *Chevron* decision and the constitutional separation of powers doctrine in that the decision may well violate that doctrine, because it requires judges to defer to federal agencies' interpretations of ambiguous statutes; and

WHEREAS, before his passing, Justice Scalia, *Auer*'s author, joined the call to revisit *Auer* deference, observing that "for decades, and for no good reason, we have been giving agencies the authority to say what their rules mean" and "to both make and execute the same law"; and

WHEREAS, the U.S. Supreme Court has significantly narrowed *Auer*'s domain to refuse deference when the interpretation of ambiguous regulations that would impose potentially massive liability on the regulated community; and

WHEREAS, the judicial power, as originally understood, requires a court to exercise its independent judgment in interpreting and expounding upon laws and regulations, while deference precludes judges from exercising that judgment, forcing them to abandon what they believe is the best reading of an ambiguous statute in favor of an agency's construction, thus wresting from courts the ultimate interpretative authority to say what the law is; and

WHEREAS, the State of Tennessee is more unique than other states in that its General Assembly legislates with the philosophy that limited regulation by state government entities is better for businesses and Tennesseans as a whole; and

WHEREAS, this legislative body strongly supports the premise that state statutes and administrative rules must be narrowly construed by state entities in the exercise of their delegated authority; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED ELEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that this body staunchly opposes the current principles of judicial deference as

it relates to both the *Chevron* and *Auer* decisions and urges all state and federal courts to refrain from applying such principles.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the director of the administrative office of the courts for distribution to each member of the Supreme Court of Tennessee, the Clerk of the United States Supreme Court for distribution to each member of the Court, and to all members of the Tennessee Congressional delegation.

House Civil Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 540* **House Bill No. 995**

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

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

(a) For the purposes of this section:

(1) "Diagnosed mental illness" means a serious psychological condition, including, but not limited to, major depressive disorder, anxiety disorder, psychosis, bipolar disorder, personality disorder, and post-traumatic stress disorder, or any disorder found in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders; and

(2) "Psychotherapy" means an intervention for a diagnosed mental illness through the use of talk therapy by a licensed mental health professional.

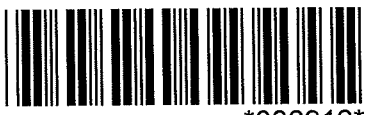
(b)

(1) A consumer is entitled to care from a competently qualified person when receiving care for a diagnosed mental illness.

(2) A license is required under title 63 for a person to competently treat a diagnosed mental illness. An unlicensed person is not competent to provide services that fall within any scope of practice for which a license is required under title 63 for treatment of a diagnosed mental illness.

(3) An unlicensed person who provides talk therapy or counseling services shall provide to the client for the client's review and signature, a statement acknowledging the unlicensed status of the provider.

(c)



(1) An unlicensed person may be civilly liable to the client if the unlicensed person knowingly offered psychotherapy services to treat a diagnosed mental illness without being licensed as a mental health provider.

(2) The client may maintain an action to recover damages for the unlicensed psychotherapy treatment of a diagnosed mental illness, including consideration paid to the unlicensed provider, costs in recovering consideration paid, and reasonable attorney's fees as determined by the court.

(d) The following persons are exempt from this section:

(1) Clergy who are not being compensated on a fee-for-service basis;

(2) Students and practitioners in training when the student or practitioner is under the lawful supervision of a licensed healthcare professional;

(3) Persons holding a license under title 63 when acting within the lawful scope of practice;

(4) An unlicensed person operating under the supervision of a person holding a license under title 63, providing counseling or therapy services in a correctional facility;

(5) Any service provider at a homeless shelter, licensed behavioral health residential facility, hospital, or any state-operated agency or facility;

(6) State-contracted mobile crisis responders;

(7) An unlicensed person operating under the supervision of a person holding a license under title 63 providing counseling or therapy services in a community mental health center; and

(8) Any person providing peer counseling or social services not on a fee-for-service basis.

(e) This section does not expand or restrict the scope of practice for any person holding a license under title 63.

(f) If an unlicensed person offering talk therapy and counseling services on a fee-for-service basis cannot produce a copy of the client acknowledgement of

unlicensed status signed by the client, there is a rebuttable presumption that the services were offered to treat a diagnosed mental illness.

(g) The client acknowledgement of unlicensed status shall contain the following language:

CLIENT ACKNOWLEDGEMENT OF UNLICENSED STATUS

I know that _____ (unlicensed person) providing services to me is NOT authorized by the state of Tennessee to diagnose, prevent, or treat a diagnosed mental illness that requires a license to diagnose and treat. Because the provider is not licensed, I know:

- The provider is not authorized to diagnose or treat a condition that requires a license to treat, including, but not limited to, major depression, bipolar disorder, anxiety disorder, personality disorder, and other mental health disorders;
- The provider has not undergone a background check by state authorities regarding criminal histories;
- The provider has no legal requirement to maintain ongoing professional education to ensure competence;
- The provider can be subpoenaed to testify about me in a court of law without my permission;
- The provider's records may be used against me in a court of law;
- The provider may be able to talk about my treatment with others without my consent and with no consequences;
- An employer may be able to request, demand, or obtain a copy of my records without my consent; and
- A prosecuting attorney or grand jury may be able to obtain a copy of my records as part of a criminal investigation.

Having been informed of the information herein, I agree to services by the above provider.

_____

Client Name

_____

Today's Date

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.

homestead exemption is null and void to the extent the real property claimed as a homestead was procured directly or indirectly through fraud.

SECTION 8. Tennessee Code Annotated, Title 26, Chapter 2, Part 3, is amended by adding the following as a new section:

Real property, up to one hundred sixty (160) acres, including any dwelling used as the claimant's principal place of residence and any other ancillary structure, considered agricultural land as defined by § 67-5-1004 and owned by the individual or a married couple, is entitled to a homestead exemption up to, but not exceeding, two hundred fifty thousand dollars ($250,000) in value.

SECTION 9. Tennessee Code Annotated, Title 26, Chapter 2, Part 3, is amended by adding the following as a new section:

(a) On April 1, 2026, and at each five-year interval ending on April 1 thereafter, the fiscal review committee shall report to the chairs of the judiciary committees of the senate and the house of representatives, the amount by which the dollar amounts of exemptions provided in § 26-2-301, and by reference in § 26-2-309 and § 30-2-209, in effect immediately before that date may be increased as provided in subsection (b). Those increases shall not take effect unless they are approved by the general assembly.

(b) The fiscal review committee shall determine the amount of the adjustment based on the change in the average consumer price index, all cities average, published by the United States department of labor, bureau of labor statistics, for the most recent five-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest one thousand dollars ($1,000).

SECTION 10. Tennessee Code Annotated, Section 30-2-209, is amended by deleting the language "five thousand dollars ($5,000)" wherever it appears and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 11. This act shall take effect January 1, 2021, the public welfare requiring it.

House Civil Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

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Signature of Sponsor

AMEND Senate Bill No. 399 **House Bill No. 236***

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

SECTION 1. Tennessee Code Annotated, Section 26-2-301(a), is amended by deleting the language "five thousand dollars ($5,000)" wherever it appears and substituting instead the language "two hundred fifty thousand dollars ($250,000)" and by deleting the language "seven thousand five hundred dollars ($7,500)" and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 2. Tennessee Code Annotated, Section 26-2-301(e), is amended by deleting the subsection and substituting instead the following:

(e) Notwithstanding subsection (a) to the contrary, an unmarried individual who is sixty-two (62) years of age or older shall be entitled to a homestead exemption not exceeding two hundred fifty thousand dollars ($250,000) upon real property that is owned by the individual and used by the individual as a principal place of residence; a married couple, one (1) of whom is sixty-two (62) years of age or older and the other of whom is younger than sixty-two (62) years of age, shall be entitled to a homestead exemption not exceeding two hundred fifty thousand dollars ($250,000) upon real property that is owned by one (1) or both of the members of the couple and used by the couple as their principal place of residence; and a married couple, both of whom are sixty-two (62) years of age or older, shall be entitled to a homestead exemption not exceeding two hundred fifty thousand dollars ($250,000) upon real property that is owned by one (1) or both of the members of the couple and used by the couple as their principal place of residence.

SECTION 3. Tennessee Code Annotated, Section 26-2-301(f), is amended by deleting the language "twenty-five thousand dollars ($25,000)" and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 4. Tennessee Code Annotated, Section 26-2-301 is amended by adding the following language as a new subsection:

> In order to be eligible for the homestead exemption under this chapter, a claimant must have made this state the claimant's domicile for the seven hundred thirty (730) days immediately preceding the date of filing the claim of homestead exemption.

SECTION 5. Tennessee Code Annotated, Section 26-2-304, is amended by deleting the language "five thousand dollars ($5,000)" and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 6. Tennessee Code Annotated, Section 26-2-309, is amended by deleting the language "five thousand dollars ($5,000)" wherever it appears and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 7. Tennessee Code Annotated, Title 26, Chapter 2, Part 3, is amended by adding the following as a new section:

> The value of real property claimed as a homestead shall be reduced to the extent such value is attributable to a portion of any property the claimant disposed of in the five (5) year period immediately preceding the date of filing the homestead exemption claim with the intent to hinder, delay, or defraud a creditor and that the claimant could not exempt; or that portion the debtor could not exempt if on such date the debtor had held the property so disposed. The homestead exemption is null and void to the extent the real property claimed as a homestead was procured directly or indirectly through fraud.

SECTION 8. Tennessee Code Annotated, Title 26, Chapter 2, Part 3, is amended by adding the following as a new section:

> Real property, up to one hundred sixty (160) acres, including any dwelling used as the claimant's principal place of residence and any other ancillary structure, considered agricultural land as defined by § 67-5-1004 and owned by the individual or a

married couple, is entitled to a homestead exemption up to, but not exceeding, two hundred fifty thousand dollars ($250,000) in value.

SECTION 9. Tennessee Code Annotated, Title 26, Chapter 2, Part 3, is amended by adding the following as a new section:

(a) On April 1, 2026, and at each five-year interval ending on April 1 thereafter, the fiscal review committee shall report to the chairs of the judiciary committees of the senate and the house of representatives, the amount by which the dollar amounts of exemptions provided in § 26-2-301, and by reference in § 26-2-309 and § 30-2-209, in effect immediately before that date may be increased as provided in subsection (b). Those increases shall not take effect unless they are approved by the general assembly.

(b) The fiscal review committee shall determine the amount of the adjustment based on the change in the average consumer price index, all cities average, published by the United States department of labor, bureau of labor statistics, for the most recent five-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest one thousand dollars ($1,000).

SECTION 10. Tennessee Code Annotated, Section 30-2-209, is amended by deleting the language "five thousand dollars ($5,000)" wherever it appears and substituting instead the language "two hundred fifty thousand dollars ($250,000)".

SECTION 11. This act shall take effect January 1, 2021, the public welfare requiring it.