

Amendment No. 2 to SB2890

Beavers
Signature of Sponsor

AMEND Senate Bill No. 2890*

House Bill No. 3040

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

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 3, Part 1, is amended by adding the following as a new section:

Section 38-3-124.

(a) The chief law enforcement officer of a county or municipal law enforcement agency may request and shall be granted from the clerk of the appropriate court, or other authorized officer, an agreed-upon number of signed but otherwise blank subpoenas, as authorized by Rule 17(a) of the Tennessee Rules of Criminal Procedure, for use by the requesting law enforcement agency.

(b) The number and frequency with which blank subpoenas are issued shall be determined by agreement between the clerk and the chief law enforcement officer, but it is the intent of this section that law enforcement officers have a sufficient number of blank subpoenas available to insure that the time of law enforcement personnel not be spent obtaining subpoenas pursuant to in Rule 17 of the Tennessee Rules of Criminal Procedure.

(c) The chief law enforcement officer of a county or municipal law enforcement agency may permit any full-time law enforcement officer who has been certified by the peace officer standards and training commission and is employed by such agency to carry blank subpoenas issued by the clerk as permitted by this section.

(d) If during the course of the officer's duties in the detection and prevention of crime, such officer arrests a person for the commission of a criminal offense, the officer may issue and serve a subpoena at the scene of such arrest if:

(1) The person arrested for the offense is still present;

(2) The officer determines at the scene of the arrest that the testimony of a witness to the offense is necessary in the prosecution of the person arrested; and

(3) The officer:

(A) Completes the subpoena prior to service; and

(B) Ensures that the date of attendance listed on the subpoena is reasonably likely to be the arrested person's court date.

(e) An officer issuing a subpoena pursuant to this section shall ensure that the subpoena is returned to the court as required by law within three (3) days of service.

(f)

(1) In order to determine whether this section is an effective and efficient tool for law enforcement while at the same time protecting the rights of the accused, this section shall be initially implemented as a pilot project in the counties and municipalities of the twenty-fourth (24th) and twenty-fifth (25th) judicial districts, as those districts are comprised by § 16-2-506.

(2) Any county or municipality located within the twenty-fourth (24th) or twenty-fifth (25th) judicial district that elects to participate in the pilot project created by this section shall do so by adopting the provisions of this section by a two-thirds (2/3) vote of the legislative body of such county or municipality after

consultation with the affected law enforcement agencies and clerks.

(3) By June 1, 2011, the law enforcement agencies and the affected clerks in each county and municipality participating in such pilot project shall compile an assessment report detailing the experience of that agency or clerk's office with the service of subpoena procedure set forth in this section. The assessment shall reach a conclusion concerning whether this procedure should be expanded or concluded and suggest any recommended changes to the procedure based upon the experience of the agency or office.

(4) Any other office, agency or person affected by the subpoena service procedure authorized by this section may file their opinion of the pilot program in writing prior to June 30, 2011.

(5) The assessment report and any written opinions filed pursuant to subdivision (4) shall be filed with the administrative office of the courts by June 30, 2011.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it and shall cease to be effective on June 30, 2011.