

SENATE BILL 1953

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 28, Chapter 3, Part 1 and Title 40, Chapter 35, Part 3, relative to certain civil judgments and restitution orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 28-3-110, is amended by designating the existing language as subsection (a) and adding the following new subsections (b) and (c):

(b)

(1) Notwithstanding the provisions of subsection (a), there is no time within which a judgment or decree of a court of record entered on or after July 1, 2014, must be acted upon in the following circumstances:

(A) The judgment is for the injury or death of a person that resulted from the judgment debtor's criminal conduct; and

(B) The judgment debtor is convicted of a criminal offense for the conduct that resulted in the injury or death; or

(C) The civil judgment is originally an order of restitution converted to a civil judgment pursuant to § 40-35-304.

(2)

(A) Prior to entry of the judgment, the judge shall make a determination on the record that the plaintiff's injury or death was the result of the defendant's criminal conduct and that the defendant's conduct resulted in a criminal conviction.

(B) When entering a civil judgment on or after July 1, 2014, to which this subsection applies, both the trial judge and clerk shall sign and

note the existence of the conviction on the judgment document, and the clerk shall also make appropriate docket notations. Such signatures and notations shall be sufficient evidence that the judgment is valid until paid in full or otherwise discharged as authorized by law.

(c)

(1) Notwithstanding subsection (b), if a person was awarded a judgment meeting the criteria of subdivision (b)(1) but the judgment was entered prior to July 1, 2014, and is still valid as of the date it is presented to the clerk pursuant to this subsection, the statute of limitations on such judgment set out in (a) shall be tolled if the person:

(A) Obtains a certified copy of the defendant's judgment of conviction from the clerk of the court in which the conviction occurred showing that the conviction meets the criteria of subdivision (b)(1)(A) and (B);

(B) Obtains a certified copy of the person's civil judgment that was based on the defendant's criminal conduct;

(C) Completes, under penalty of perjury, an affidavit, in substantially the form set out in subsection (d).

(2) The clerk shall ensure that the documents presented are those required by subdivision (1). If they are the correct documents, the clerk shall record the documents and from the date of recordation, the statute of limitations of the person's civil judgment shall be tolled.

(d) The affidavit required to accompany the judgment of conviction and civil judgment shall be substantially as follows:

AFFIDAVIT

Comes the Affiant _____
(Printed Name)

Under penalties of perjury, affiant deposes and says, to wit as follows:

1. I was awarded the attached civil judgment based upon the criminal conduct of another.
2. The attached judgment of conviction was the result of the criminal conduct.
3. The civil judgment and the judgment of conviction were based upon the same conduct.
4. The provision of § 28-3-110(b) are applicable to affiant pursuant to § 28-3-110(c).

Further Affiant Saith Not

 Signature of Affiant
ACKNOWLEDGMENT
 State of Tennessee

County of _____
 On this _____ day of _____, 20_____, before me personally
 appeared _____
 to me known to be the person described in and who executed the foregoing instrument, and
 acknowledged that he/she executed the same as his/her free act and deed, for the purposes therein
 set forth.

 (County Clerk) (Notary Public)
 My Commission Expires _____,
 20_____

SECTION 2. Tennessee Code Annotated, Section 40-35-304, is amended by deleting
 subdivision (h)(7) and substituting instead the following:

(7) A civil judgment entered pursuant to this subsection (h) shall remain in effect
 from the date of entry until it is paid in full or is otherwise discharged and shall be
 enforceable by the victim or the victim's beneficiary in the same manner and to the same
 extent as other civil judgments are enforceable.

SECTION 3. This act shall take effect July 1 2014, the public welfare requiring it and
 shall apply to all applicable civil judgments entered after such date and to such judgments
 entered before such date if the judgment is still valid and the person follows the procedure in
 Section 1(c) and (d).