

How to Write a Warrant Without Screwing It Up

(how many of you noticed I changed the title)?



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8.1.23

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1

jmmason@tndagc.org

2

“A magistrate is
a person
who . . .

www.vocabulary.com

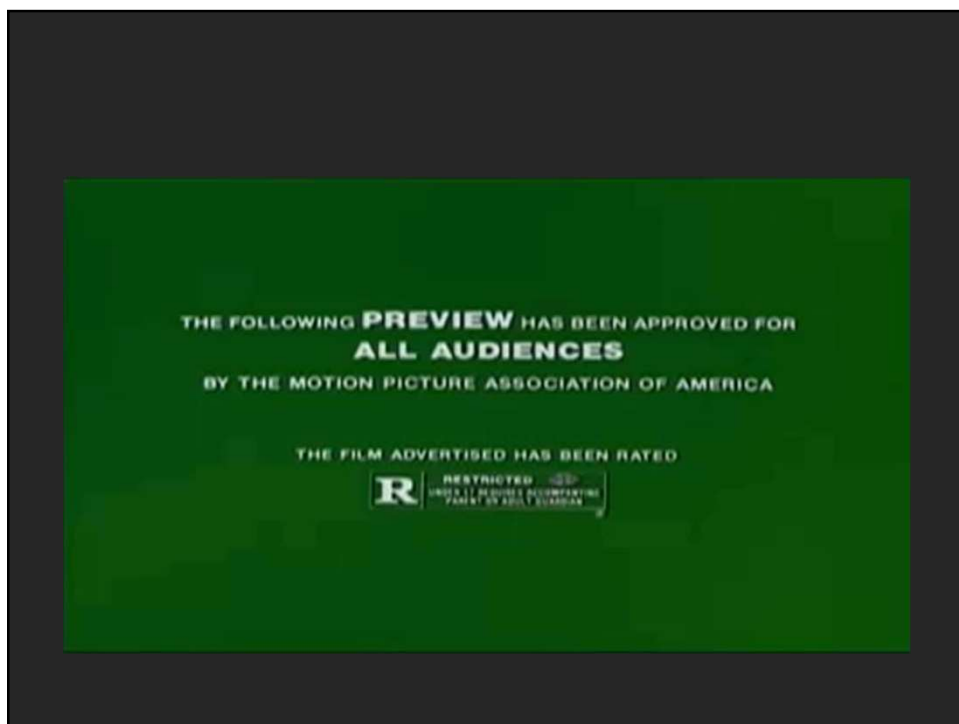
3

“A magistrate is
a person
who

lays down the law”

www.vocabulary.com

4



5

Warrant and Affidavit

6

Affidavit: Rule 3

A statement alleging that a person has committed an offense. It must:

- (a) be in writing;
- (b) be made on oath before a magistrate or a neutral and detached court clerk authorized by Rule 4 to make a probable cause determination; and
- (c) allege the essential facts constituting the offense charged.

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Warrant/Summons: Rule 4

If the affidavit of complaint and any supporting affidavits filed with it establish that there is **probable cause** to believe that an offense has been committed and that the defendant has committed it, the magistrate or clerk shall issue an arrest warrant to an officer authorized by law to execute it or shall issue a criminal summons for the appearance of the defendant.

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Warrant/Summons: Rule 4

Warrant. The arrest warrant **shall**:

- (A) be signed by the magistrate or clerk;
- (B) contain the name of the defendant or, if this name is unknown, any name or description by which the defendant can be identified with reasonable certainty;
- (C) indicate the county in which the warrant is issued;
- (D) describe the offense charged in the affidavit of complaint; and
- (E) order that the defendant be arrested and brought before the nearest appropriate magistrate in the county of arrest.

9

What is the Standard of Proof?

PROBABLE CAUSE

10

Probable Cause

Probable cause is “a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that a crime has been committed.”

11



12

Affidavit

Four Corners Doctrine: When reviewed later, only the affidavit will be considered for the existence of probable cause. A court will not consider any other evidence known to the affiant or provided to or possessed by the issuing magistrate

See State v. Clark, 160 S.W.3d (Tenn. 2005); State v. Henning, 975 S.W.2d 290 (Tenn. 1998)

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Arrest v. Citation v. Summons

14

A peace officer who has arrested a person for the commission of a misdemeanor committed in the peace officer's presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, shall issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate.

15

A peace officer who has arrested a person for the commission of a misdemeanor committed in the peace officer's presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, **SHALL** issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate.

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Add photo of warrant

17

TCA § 40-7-118

18

Citation

- "Citation" means an order prepared as a written or electronic citation and issued by a peace officer on paper or on an electronic data device requiring a person accused of violating the law to appear in a designated court or government office at a specified date and time. The signature of the person to whom the order is issued is required, and the order must be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense

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A peace officer may issue a citation to the arrested person for:

(A) The offense of theft

(B) Issuance of bad checks

(C) Use of a revoked or suspended driver license

(D) Assault or battery as those offenses are defined by common law, if the officer believes there is a reasonable likelihood that persons would be endangered by the arrested person if a citation were issued in lieu of continued physical custody of the defendant; or

(E) Prostitution, if the arresting party has knowledge of past conduct of the defendant in prostitution or has reasonable cause to believe that the defendant will attempt to engage in prostitution activities within a reasonable period of time if not arrested.

20

A peace officer **MAY** issue a citation to the arrested person for:

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- (B) Issuance of bad checks
- (C) Use of a revoked or suspended driver license
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- (E) Prostitution, if the arresting party has knowledge of past conduct of the defendant in prostitution or has reasonable cause to believe that the defendant will attempt to engage in prostitution activities within a reasonable period of time if not arrested.

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No citation shall be issued under the provisions of this section if:

- (1) The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;
- (2) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;
- (3) The person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation;
- (4) The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized;

22

NO citation shall be issued under the provisions of this section if:

- (1)** The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;
- (2)** There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;
- (3)** The person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation;
- (4)** The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized;

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- (5)** A reasonable likelihood exists that the arrested person will fail to appear in court;
- (6)** The person demands to be taken immediately before a magistrate or refuses to sign the citation;
- (7)** The person arrested is so intoxicated that the person could be a danger to the person's own self or to others; or
- (8)** There are one (1) or more outstanding arrest warrants for the person.
- (9)** The person is subject to arrest pursuant to § 55-10-119.

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55-10-119. Detaining drivers involved in accidents involving serious bodily injury or death if driver does not have valid driver license and evidence of financial responsibility.

- An officer shall detain a driver without a warrant, as provided in § 40-7-103, and bring the driver before a committing magistrate if the driver: **(1)** Is involved in an accident resulting in: **(A)** Serious bodily injury, as defined in § 55-50-502; or
- **(B)** Death; and
- **(2)** Does not have a valid driver license; and
- **(3)** Does not have evidence of financial responsibility as required by § 55-12-139. Acts 2012, ch. 737, § 1.

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Whenever an officer makes a physical arrest for a misdemeanor and the officer determines that a citation cannot be issued because of one (1) of the nine (9) reasons enumerated, the officer shall note the reason for not issuing a citation on the arrest ticket.

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Whenever an officer makes a physical arrest for a misdemeanor and the officer determines that a citation cannot be issued because of one (1) of the nine (9) reasons enumerated, the officer **SHALL** note the reason for not issuing a citation on the arrest ticket.

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Amended 5/9/2019

Removes certain circumstances in which a citation in lieu of arrest may not be issued; and authorizes police officers to give citations, in lieu of an arrest, for non-violent misdemeanor crimes. The legislation intends to improve overcrowding in Tennessee jails by allowing police officers to issue citations to nonviolent misdemeanor offenders, rather than arrest them. The police officer, however, still has the authority to arrest offenders if there is reasonable expectation that they are a flight risk or will continue to commit the crime. Proponents of this bill say the legislation also seeks to eliminate a vicious cycle of someone getting arrested for a minor non-violent crime, losing their job and source of income due to being arrested and detained and then returning to court for unpaid fines or costs. The proponents say nearly half of Tennessee's jail population consists of misdemeanor offenders, and of the 15,000 pretrial inmates, over 5,000 are awaiting trials for misdemeanor charges.

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RULE 4

A criminal summons may be issued instead of an arrest warrant; when a clerk is performing this judicial function, the district attorney general is empowered to direct the clerk whether to issue a warrant or a criminal summons upon a finding of probable cause.

The criminal summons shall be in the same form as the arrest warrant except that it orders the defendant to appear before a magistrate at a stated time and place.

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**YOU ARE THE FIRST
PERSON TO BE
BLAMED
(OFF WITH YOUR HEAD)**

30



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Affidavit

Remember Rule 3

The essential facts must be alleged
constituting the offense charged

Less is more unless it is not enough

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AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 03-15-2015 in [REDACTED] County, Tennessee, Dwight Allen committed the offense(s) of violation(s) of T.C.A. § POSSESSION OF BURGLARY TOOLS 39-14-701. I further state under oath that the essential facts constituting the offense(s), the sources of my information and the reasons why this information is believable and reliable are as follows: On 03-15-2015 Deputies were dispatched to 1169 [REDACTED] Hwy. where a passerby observed a white male pulling a long strand of electrical wire from the house. The caller stated she turned around to get the license plate number and the white male jumped in his car and drove North on Hwy [REDACTED]. The caller stated it was a white Toyota Camry with the plate number 176-ZBM. While Deputies were in the area we received another call from 170 Charles Talley Road stated a suspicious vehicle with a white male was sitting on the bridge lowering a gas can down with a rope. The caller then stated the vehicle was a white Toyota and it had come to the end of his drive way and backed in. When I Deputy [REDACTED] arrived I observed a white male that I know as Dwight Allen in the vehicle pulled over on the side of the road of Charles Talley Road. When the tag was checked it matched the tag given from the caller at 1169 [REDACTED]. Mr. Allen was read his Miranda rights and he agreed to speak with his attorney present. Mr. Allen did admit to being at the house at 1169 [REDACTED] and taking the wire without permission of the owner and having the wire inside the trunk of his vehicle. A search of the vehicle was conducted and Deputies found the trunk stuffed full of electrical wire and numerous burglaries tools found inside the vehicle. Computer check of Mr. Allen's driver license showed suspended for failure to show proof of insurance on 12-2-2013.

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State, Def. to _____ at 9:00 a.m. State, Def. to _____ at 9:00 a.m.

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about JAN. 28TH, 2016 in [REDACTED] County, Tennessee, JESSIE ROBBINS committed the offense of Violation of TCA: 39-16-502. I further state under oath that the essential facts constituting the offense, the sources of my information and the reasons why this information is believable and reliable are as follows:

On 01/28/2016, AT APPROXIMATELY 11:18 A.M. I HANDLED A TELEPHONE PATCH FROM CENTRAL DISPATCH IN REFERENCE TO A STOLEN VEHICLE CALL FROM A JESSIE ROBBINS. MR. ROBBINS ADVISED THIS DEPUTY THAT HIS VEHICLE HAD BROKE DOWN AT THE DOLLAR GENERAL STORE IN LYLES ON 01/26/2016 AT 10:00 P.M. WHEN HE CAME BACK TO PICK IT UP TODAY AT 11:00 A.M. ON 01/28/2016, HE THEN NOTICED THAT IT WAS GONE. HE THEN CALLED FOR LOCAL LAW ENFORCEMENT TO INTERVIEW ON HIS BEHALF. THROUGH MY INVESTIGATION, I ASCERTAINED THAT THE VEHICLE WAS NOT TAKEN BY A REPTO OUTFIT, THIS AS PER CENTRAL DISPATCH. CENTRAL DISPATCH DID ADVISE THROUGH THERE INVESTIGATION THAT ON 01/27/2016 AT 11:00 A.M., TTP TROOPER WILLIAM GOODMAN CHECKED OUT AN ABANDONED VEHICLE OUT ON STATE ROAD 440 IN HICKMAN COUNTY AND IT CAME BACK TO JESSIE ROBBINS OF LYLES IN THE STOLEN PROPERTY FOUND INSIDE OF THE VEHICLE FROM BRENTWOOD. THE PROPERTY WAS STOLEN OUT OF BRENTWOOD, TENNESSEE. DETECTIVE MIKE BRADLEY OF THE BRENTWOOD, P.D. IS HANDLING.

I THEN CHECKED WITH THIRD SHIFT DEPUTY TIM OULLEN WHO PATROLS THAT AREA. DEPUTY OULLEN ADVISED THAT FROM TUESDAY 01/26/2016 THROUGH THURSDAY NIGHT 01/28/2016, HE HAD NOT SEEN A WHITE FORD TAURUS PARKED STATIONARY DURING THE HOURS BETWEEN 10:00 P.M. AND 6:00 A.M. PARKED IN THE DOLLAR GENERAL PARKING LOT.

I THEN CHECKED WITH THE DOLLAR GENERAL STAFF TO SEE IF THEY NOTICED A WHITE FORD TAURUS THAT WAS STATIONARY IN THE PARKING LOT OF THE DOLLAR GENERAL STORE.

STORE MANAGER ROBIN BIGGS ADVISED THAT SHE WORKED ON WEDNESDAY 01/27/2016, FROM 2 P.M. UNTIL 10:30 P.M. ALONG WITH HER CLOSING PARTNER DESREE ADAMS. NEITHER WOMAN NOTICED A WHITE FORD TAURUS THAT WAS BROKE DOWN IN THE PARKING LOT, NOR DID ANYONE REPORT A CAR BEING BROKE DOWN IN THE PARKING LOT.

CLOSING STORE MANAGER FOR TUESDAY NIGHT WAS TERAN KELLY (01/26/2016), AND HER PARTNER DAKOTA BIGGS. THEY CLOSED THE STORE DOWN AT 10:30 P.M. THEY DID NOT NOTICE A WHITE FORD TAURUS IN THE PARKING LOT AT ALL. THIS CONTRADICTS THE CLAIM MADE BY JESSIE ROBBINS THAT HIS CAR BROKE DOWN IN THE PARKING LOT AT 10:00 P.M. THAT SAME NIGHT ON 01/26/2016.

CONCLUSION:

BASED ON A TOTAL OF FOUR STAFF TEAM MEMBERS FROM DOLLAR GENERAL THAT DID NOT SEE THE VEHICLE IN THE PARKING LOT OF THE 26TH OF JAN OR THE 27TH OF JANUARY, WHEN IT WAS FOUND ON JANUARY 27TH BY TTP TROOPER WILLIAM GOODMAN, IT IS PLAUSIBLE TO BELIEVE THAT THE VEHICLE WAS NEVER BROKE DOWN THERE AT ALL. IT SHOULD BE DULY NOTED THAT THE VEHICLE WAS FOUND CONTAINING STOLEN PROPERTY IN ITS TRUNK. AREA IN HICKMAN COUNTY ON STATE ROAD 440. ON 01/26/16, 01/27/16, AND 01/28/16 DEPUTY TIM OULLEN NEVER SPOTTED OR SEEN THE VEHICLE IN THE DOLLAR GENERAL PARKING LOT AT ALL DURING THE MIDNIGHT SHIFT. NOR DID THE EMPLOYEES FROM DOLLAR GENERAL AND CENTRAL DISPATCH EVER RECEIVE A REPORT OF A BROKE DOWN VEHICLE STATIONARY IN THE PARKING LOT. IT IS PLAUSIBLE TO BELIEVE THAT WITH FIVE EYE WITNESSES STATING THAT THEY NEVER SEEN THE VEHICLE IN THE PARKING LOT, THEN IT IS PLAUSIBLE TO BELIEVE THAT MR. JESSIE ROBBINS IS FABRICATING AND MAKING A FALSE REPORT.

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Less is more unless it is not enough

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IN THE GENERAL SESSIONS COURT OF [REDACTED] COUNTY AT CENTERVILLE, TENNESSEE

State of Tennessee vs. [REDACTED]

State Control # 719013466 County Case # [REDACTED] Docket # 19-CR-592

State, Def. to [REDACTED] at 9:00 a.m. Attorney for Defendant [REDACTED]

State, Def. to [REDACTED] at 9:00 a.m. State, Def. to [REDACTED] at 9:00 a.m.

State, Def. to [REDACTED] at 9:00 a.m. State, Def. to [REDACTED] at 9:00 a.m.

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 04/12/2019 in [REDACTED] County, Tennessee, [REDACTED] committed the offense of Violation of TCA: 39-17-418 simp poss sch.VI marijuana

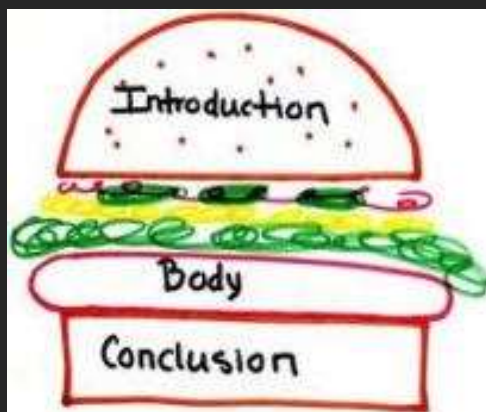
I further state under oath that the essential facts constituting the offense, the sources of my information and the reasons why this information is believable and reliable are as follows:

On 4/12/2019 Above said subject was found in possession of plastic baggie containing 1.6 grams of marijuana.

On 4/12/2019 Above said subject was found in possession of plastic baggie containing 1.6 grams of marijuana.

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Point A to Point B to Point C



37

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 4/7/2015
 in the city of [redacted] County, Tennessee, 4009 Calvert, Harley
 committed the offense(s) of violation(s) of T.C.A. § 39-17-418 Simple Possession/Casual Exchange
 I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
 information is believable and reliable are as follows:

On 04/07/2015 at approx. 22:50 hour, [redacted] observed a white Ford Ranger pickup traveling East on East 2nd Street with multiple light violations. A traffic stop was conducted and Harley B. Calvert was found to be the driver. A tin was found in the vehicle which contained a plastic baggy with a green leafy substance which field tested positive for Marijuana. The baggy weighed 3.9 Grams

Where's the meat?

38

Affidavit

Less is more unless it is not enough

**ESSENTIAL FACTS =
ELEMENTS OF OFFENSE +
DATE + IDENTITY + VENUE**

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Essential Facts

1. Date of Offense
2. Offense Charged and Elements
3. T.C.A. Code
4. Grade of Offense
5. Name of Defendant
6. Name of Victim
7. Name(s) of Witness(es) Necessary for General Sessions Court
8. Contact Information for Victim(s) and Witness(es)
9. Venue

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No Essential Facts = A Void Warrant

41

**REMEMBER
YOUR NAME IS
ON THIS WARRANT**

42

If the warrant is void . . .

Warrant will be dismissed
The bad guy gets out of jail



(you end up beheaded on social media)

43

Elements

Small words can make a **HUGE** difference

44

And v. Or

45

Shall v. May

46

Inchoate Offenses

Chapter 12

Part 1

47

Attempt

39-12-101

v.

Solicitation

39-12-102

v.

Conspiracy

39-12-103

48

GRADE OF OFFENSE AND NAME

Attempt, Solicitation and Conspiracy

TCA §39-12-101: Attempt
One Class Below
TCA §39-12-102: Solicitation
Two classes below
TCA §39-12-103: Conspiracy
One Class Below

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Attempt

39-12-101

One class below

[(a) A person commits criminal attempt who, acting with the kind of culpability otherwise required for the offense:

- (1) Intentionally engages in action or causes a result that would constitute an offense, if the circumstances surrounding the conduct were as the person believes them to be;
- (2) Acts with intent to cause a result that is an element of the offense, and believes the conduct will cause the result without further conduct on the person's part; or
- (3) Acts with intent to complete a course of action or cause a result that would constitute the offense, under the circumstances surrounding the conduct as the person believes them to be, and the conduct constitutes a substantial step toward the commission of the offense.

of the offense"

Must also include the offense that is being attempted – **two statutes should be listed!**

50

AFFIDAVIT OF COMPLAINT

The undersigned affiant, after being duly sworn according to the law, states that Defendant committed the offense of: **Criminal Attempt (d Felony)** in the above county on or about 03/08/2015.

Further, affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

TCA: 39-12-101

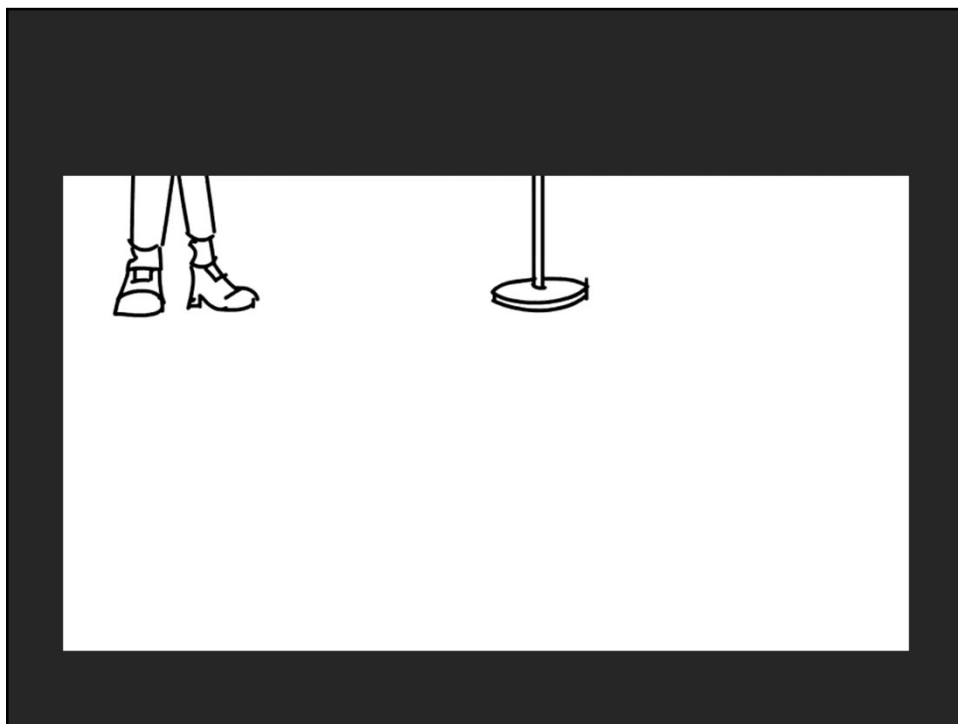
et al CLASS: **D Felony**

On 3/8/15 at approximately 4:30 p.m. a subject later identified as John Paul Beers attempted to pull Ms. Fowler's purse from her arm. Ms. Fowler resisted the attempt to take her property and Mr. Beers hit her in the arm to attempt to force her to relinquish the purse. This did occur at 545 [REDACTED] Blvd in [REDACTED], TN.

51

Know your Reas
Actus
Mens

52



53

Assaultive Offenses

Chapter 13

Part 1

54

Assault

39-13-101



55

§ 39-13-101. Assault

(a) A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

(b)(1)(A) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided, that, if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of the provider's duty, then the maximum fine shall be five thousand dollars (\$5,000).

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57

imminent

§ 39-13-101. Assault

(a) A person commits assault who:

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- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
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the provider, a fine of five thousand dollars (\$5,000) shall be imposed if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of the provider's duty, then the maximum fine shall be five thousand dollars (\$5,000).

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"In the context of assault, **"imminent"** is defined as near at hand; mediate rather than immediate; close rather than touching; impending; on the point of happening; threatening; menacing; perilous. Something which is threatening to happen at once, something close at hand, Something to happen upon the instant, close although not yet touching, and on the point of happening."

"In the context of assault, in order for the threat of death or serious bodily injury to be **"imminent,"** the person must be placed in a reasonable probability of danger as opposed to a mere possibility of danger.

"In an aggravated assault case, the element of fear is satisfied if the circumstances of the incident, within reason and common experience, are of such a nature as to cause a person to reasonably fear imminent bodily injury. Thus, the apprehension of **imminent** bodily harm may be inferred from the conduct."

from the conduct." Thus, the apprehension of **imminent** bodily harm may be inferred such a nature as to cause a person to reasonably fear imminent bodily circumstances of the incident, within reason and common experience, are of

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Imminent v. Immediate

Words matter and make a difference
Mirror the statute's language

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AFFIDAVIT OF COMPLAINT

The undersigned affiant, after being duly sworn according to the law, states that Defendant committed the offense of: Assault in the above county on or about 07/21/2015.

Further, affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

TCA: 39-13-101

et al CLASS: A Misdemeanor

On 7-21-15 at approximately 5:54 PM Andrew Lively received a voice mail from his former boss Brandon Arnold, threatening to hunt him down. The voicemail also stated that law enforcement could not stop him from causing severe bodily harm to him. The message caused Mr Lively to fear for his immediate safety.

This constitutes the offense of Assault, per TCA 39-13-101.

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§ 39-13-101. Assault

(a) A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

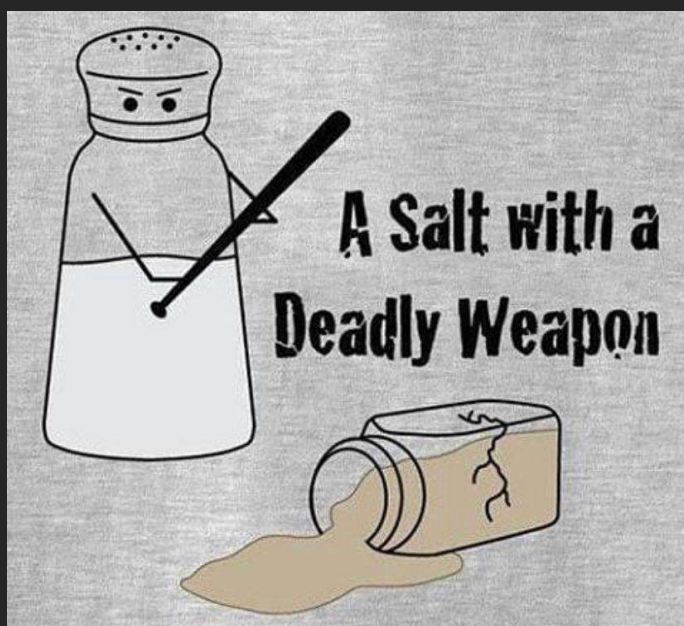
(b)(1)(A) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided, that, if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of the provider's duty, then the maximum fine shall be five thousand dollars (\$5,000).

What is the mens rea?

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Aggravated Assault

63



64

39-13-102. Aggravated assault.

(a) (1) A person commits aggravated assault who:

(A) Intentionally or knowingly commits an assault as defined in § 39-13-101, **and** the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another; **or**
- (iii) Involved the use or display of a deadly weapon; **or**
- (iv) Involved strangulation or attempted strangulation; **or**

(B) Recklessly commits an assault as defined in § 39-13-101(a)(1), **and** the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another; **or**
- (iii) Involved the use or display of a deadly weapon.

- (iii) Involved the use or display of a deadly weapon;
- (ii) Results in the death of another; **or**
- (i) Results in serious bodily injury to another;

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(2) For purposes of subdivision (a)(1)(A)(iv), "strangulation" means intentionally or knowingly impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the nose and mouth of another person, regardless of whether that conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

(b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect the child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in § 39-15-402.

(c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against the individual or individuals.

against the individual or individuals:
cause or causes bodily injury or commits or attempts to commit an assault
against an individual or individuals, intentionally or knowingly attempts to

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What is the mens rea?

67

What is serious bodily injury?

68

39-11-106. Title definitions.

- (34) "Serious bodily injury" means bodily injury that involves:
- (A) A substantial risk of death;
 - (B) Protracted unconsciousness;
 - (C) Extreme physical pain;
 - (D) Protracted or obvious disfigurement;
 - (E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or
 - (F) A broken bone of a child who is twelve (12) years of age or less;

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Scenario 1: Heavily intoxicated man at the bar threatens to kill you.

Scenario 2: Heavily intoxicated man at the bar threatens to kill you and displays a gun.

Scenario 3: Heavily intoxicated man at the bar kicks your barstool and causes you to fall and bust open your chin on the bar.

Scenario 4: Heavily intoxicated man at the bar threatens to kill you, displays a gun and in your haste to retreat you trip and fall over the barstool causing you to bust open your chin on the bar.

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Scenario 1: Heavily intoxicated man at the bar threatens to kill you.

§ 39-13-101. Assault

(a) A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

(b)(1)(A) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided, that, if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of the provider's duty, then the maximum fine shall be five thousand dollars (\$5,000).

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Scenario 2: Heavily intoxicated man at the bar threatens to kill you and displays a gun.

39-13-102. Aggravated assault.

(a) (1) A person commits aggravated assault who:

(A) Intentionally or knowingly commits an assault as defined in § 39-13-101, **and** the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another;
- (iii) Involved the use or display of a deadly weapon; **or**
- (iv) Involved strangulation or attempted strangulation; **or**

(B) Recklessly commits an assault as defined in § 39-13-101(a)(1), **and** the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another; **or**
- (iii) Involved the use or display of a deadly weapon.

§ 39-13-101. Assault

(a) A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

(b)(1)(A) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided, that, if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of

72

Scenario 3: Heavily intoxicated man at the bar kicks your barstool and causes you to fall and bust open your chin on the bar.

39-13-102. Aggravated assault.

- (a) (1) A person commits aggravated assault who:
 (A) Intentionally or knowingly commits an assault as defined in § 39-13-101, and the assault:
- (i) Results in serious bodily injury to another;
 - (ii) Results in the death of another;
 - (iii) Involved the use or display of a deadly weapon; or
 - (iv) Involved strangulation or attempted strangulation; or
- (B) Recklessly commits an assault as defined in § 39-13-101(a)(1), and the assault:
- (i) Results in serious bodily injury to another;
 - (ii) Results in the death of another; or
 - (iii) Involved the use or display of a deadly weapon.

§ 39-13-101. Assault

- (a) A person commits assault who:
- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
 - (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
 - (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.
- (b)(1)(A) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor; provided, that, if the offense is committed against a law enforcement officer or a health care provider acting in the discharge of

73

Scenario 4: Heavily intoxicated man at the bar threatens to kill you, displays a gun and in your haste to retreat you trip and fall over the barstool causing you to bust open your chin on the bar.

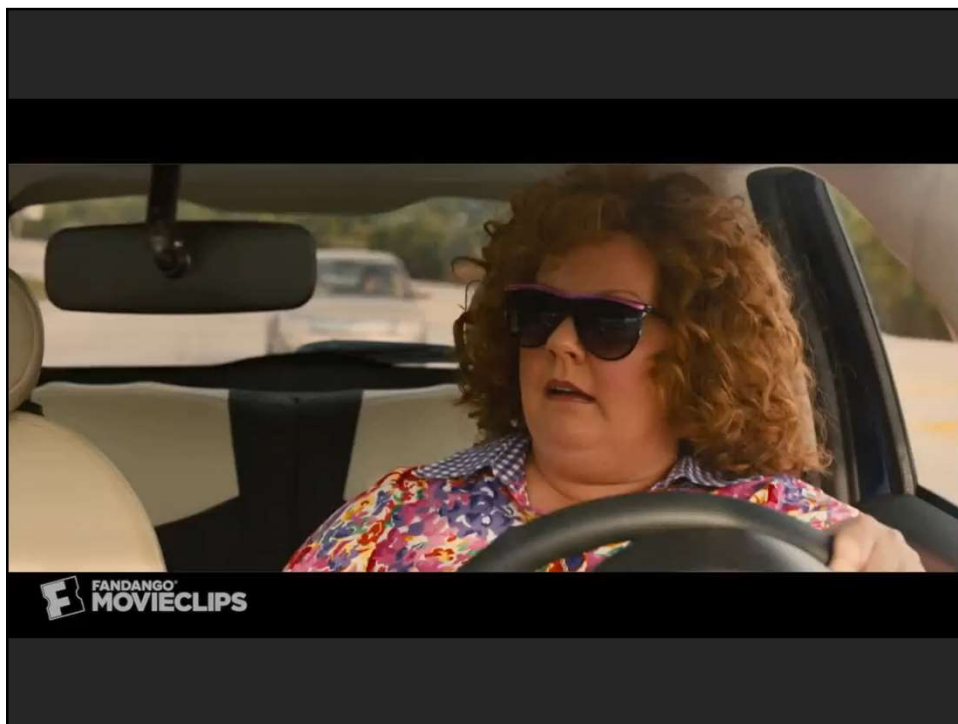
39-13-102. Aggravated assault.

- (a) (1) A person commits aggravated assault who:
 (A) Intentionally or knowingly commits an assault as defined in § 39-13-101, and the assault:
- (i) Results in serious bodily injury to another;
 - (ii) Results in the death of another;
 - (iii) Involved the use or display of a deadly weapon; or
 - (iv) Involved strangulation or attempted strangulation; or
- (B) Recklessly commits an assault as defined in § 39-13-101(a)(1), and the assault:
- (i) Results in serious bodily injury to another;
 - (ii) Results in the death of another; or
 - (iii) Involved the use or display of a deadly weapon.

§ 39-13-101. Assault

- (a) A person commits assault who:
- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
 - (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
 - (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

74



75

Assault on a First Responder

§39-13-116

76

39-13-116. Assault against first responder or nurse — "First responder" and "nurse" defined — Penalties.

(a) A person commits assault against a first responder or nurse, who is discharging or attempting to discharge the first responder's or nurse's official duties, who:

- (1) Knowingly causes bodily injury to a first responder or nurse; or
- (2) Knowingly causes physical contact with a first responder or nurse and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of a first responder or nurse.

(b) A person commits aggravated assault against a first responder or nurse, who is discharging or attempting to discharge the first responder or nurse's official duties, who knowingly commits an assault under subsection (a), and the assault:

- (1) Results in serious bodily injury to the first responder or nurse;
- (2) Results in the death of the first responder or nurse;
- (3) ~~Involved~~ the use or display of a deadly weapon; or
- (4) ~~Involved~~ strangulation or attempted strangulation.

(c)

- (1) Assault under subsection (a) is a Class A ~~misdemeanor, and~~ shall be punished by a mandatory fine of five thousand dollars (\$5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.
- (2) Aggravated assault under subsection (b) is a Class C ~~felony, and~~ is punished by a mandatory fine of fifteen thousand dollars (\$15,000) and a mandatory minimum sentence of ninety (90) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.

(d) For purposes of this section:

- (1) "First responder":
- (A) Means a firefighter, emergency services personnel, ~~POST-certified~~ law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and
- (B) ~~Includes~~ capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, and park rangers employed by the division of parks and recreation in the department of environment and conservation; and
- (2) "Nurse" means a person who is licensed, registered, or certificated under title 63, chapter 7.

77

39-13-116. Assault against first responder or nurse — "First responder" and "nurse" defined — Penalties.

(a) A person commits assault against a first responder or nurse, who is discharging or attempting to discharge the first responder's or nurse's official duties, who:

- (1) Knowingly causes bodily injury to a first responder or nurse; or
- (2) Knowingly causes physical contact with a first responder or nurse and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of a first responder or nurse.

(b) A person commits aggravated assault against a first responder or nurse, who is discharging or attempting to discharge the first responder or nurse's official duties, who knowingly commits an assault under subsection (a), and the assault:

- (1) Results in serious bodily injury to the first responder or nurse;
- (2) Results in the death of the first responder or nurse;
- (3) ~~Involved~~ the use or display of a deadly weapon; or
- (4) ~~Involved~~ strangulation or attempted strangulation.

(c)

- (1) Assault under subsection (a) is a Class A ~~misdemeanor, and~~ shall be punished by a mandatory fine of five thousand dollars (\$5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.
- (2) Aggravated assault under subsection (b) is a Class C ~~felony, and~~ is punished by a mandatory fine of fifteen thousand dollars (\$15,000) and a mandatory minimum sentence of ninety (90) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.

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- (A) Means a firefighter, emergency services personnel, ~~POST-certified~~ law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and
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78

39-13-116. Assault against first responder or nurse — "First responder" and "nurse" defined — Penalties.

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 - (2) Knowingly causes physical contact with a first responder or nurse and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of a first responder or nurse.
- (b) A person commits aggravated assault against a first responder or nurse, who is discharging or attempting to discharge the first responder or nurse's official duties, who knowingly commits an assault under subsection (a), and the assault:
- (1) Results in serious bodily injury to the first responder or nurse;
 - (2) Results in the death of the first responder or nurse;
 - (3) ~~Involves~~ the use or display of a deadly weapon; or
 - (4) ~~Involves~~ strangulation or attempted strangulation.
- (c)
- (1) Assault under subsection (a) is a Class A ~~misdemeanor, and~~ shall be punished by a mandatory fine of five thousand dollars (\$5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.
 - (2) Aggravated assault under subsection (b) is a Class C ~~felony, and~~ is punished by a mandatory fine of fifteen thousand dollars (\$15,000) and a mandatory minimum sentence of ninety (90) days incarceration. ~~The defendant is not eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.~~
- (d) For purposes of this section:
- (1) "First responder":
 - (A) Means a firefighter, emergency services personnel, POST-certified law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and
 - (B) ~~Includes~~ capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, and park rangers employed by the division of parks and recreation ~~in the department of environment and conservation~~; and
 - (2) "Nurse" means a person who is licensed, registered, or certificated under title 63, chapter 7.

79

Amended 7/1/23

(d) For purposes of this section:

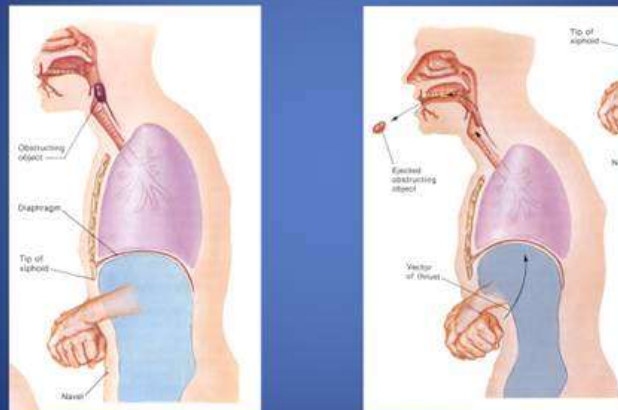
- (1) "First responder":
 - (A) Means a firefighter, emergency services personnel, POST-certified law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and
 - (B) Includes capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, deputy jailers, and park rangers employed by the division of parks and recreation in the department of environment and conservation; and
- (2) "Nurse" means a person who is licensed, registered, or certificated under title 63, chapter 7.

80

Strangulation

81

Strangulation is not "CHOKING"



You choke on food – you strangle people

82



83

THE LAW aggravated assault: strangulation

“Strangulation” means intentionally or knowingly impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the nose and mouth of another person, regardless of whether that conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

84



85

Reckless Endangerment

(A Mis, E Felony, D Felony or C Felony?)

39-13-103



86

39-13-103. Reckless endangerment.

(a) A person commits an offense who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.

(b)

(1) Reckless endangerment is a **Class A misdemeanor**.

(2) Reckless endangerment committed with a deadly weapon is a **Class E felony**.

(3) Reckless endangerment by discharging a firearm into a habitation, as defined under § 39-14-401, is a **Class C felony**, unless the habitation was unoccupied at the time of the offense, in which event it is a **Class D felony**.

(4) In addition to the penalty authorized by this subsection (b), the court shall assess a fine of fifty dollars (\$50.00) to be collected as provided in § 55-10-412(b) and distributed as provided in § 55-10-412(c).

22-10-412(p) and distributed as provided in § 22-10-412(c).
shall assess a fine of fifty dollars (\$50.00) to be collected as provided in §

87

Can you have
multiple victims?

88

Yes

89

“The Defendant's double jeopardy claim does not survive the threshold inquiry because his three convictions for *reckless endangerment* involve three distinct victims. He is not entitled to relief.”

Tennessee v. Higdon, 2014 Tenn. Crim. App. LEXIS 236 *; 2014 WL 1056651

90

What is the Zone of Danger?

91

“The term “*zone of danger*” may be employed to define that area in which a reasonable probability exists that the defendant's conduct would place others in imminent *danger* of death or serious bodily injury if others were present in that *zone* or area.”

Tennessee v. Payne, 7 S.W.3d 25 *; 1999 Tenn. LEXIS 584 ** (Supreme Court)

92



93



94

Kidnapping and False Imprisonment

Chapter 13

Part 3



95

False Imprisonment

39-13-302

v.

Kidnapping

39-13-303

v.

Aggravated Kidnapping

39-13-304

v.

Especially Aggravated Kidnapping

39-13-305

96

A friend of mine got kidnapped by a
group of mimes.

97

They did unspeakable things to him.

98

39-13-302. False imprisonment.

(a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.

99

39-13-303. Kidnapping.

(a) Kidnapping is false imprisonment as defined in § 39-13-302, under circumstances exposing the other person to substantial risk of bodily injury.

100

39-13-304. Aggravated kidnapping.

(a) Aggravated kidnapping is false imprisonment, as defined in § 39-13-302, committed:

- (1) To facilitate the commission of any felony or flight thereafter;
- (2) To interfere with the performance of any governmental or political function;
- (3) With the intent to inflict serious bodily injury on or to terrorize the victim or another;
- (4) Where the victim suffers bodily injury; or
- (5) While the defendant is in possession of a deadly weapon or threatens the use of a deadly weapon.

101

39-13-305. Especially aggravated kidnapping.

(a) Especially aggravated kidnapping is false imprisonment, as defined in § 39-13-302:

- (1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon;
- (2) Where the victim was under the age of thirteen (13) at the time of the removal or confinement;
- (3) Committed to hold the victim for ransom or reward, or as a shield or hostage; or
- (4) Where the victim suffers serious bodily injury.

102

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 1/26/2015
in the city of [REDACTED] County, Tennessee, 3342 Baxter, Joe
committed the offense(s) of violation(s) of T.C.A. § 39-13-304 Aggravated Kidnapping
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
information is believable and reliable are as follows:

On 1/26/15 Debra Seiber stated that Joe Baxter and her had gotten into a verbal argument the night before. Debra wrote in her
written statement that Joe had held a knife to her throat and then told her that she could never make him leave. Debra also stated that
Joe trapped her in her bedroom and would not let her leave. Debra also wrote in her written statement that Joe threatened to kill her
and stated repeatedly that he would burn the house down.

103

Which One?

104

39-13-302. False imprisonment.

(a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.

105

39-13-303. Kidnapping.

(a) Kidnapping is false imprisonment as defined in § 39-13-302, under circumstances exposing the other person to substantial risk of bodily injury.

106

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(a) Aggravated kidnapping is false imprisonment, as defined in § 39-13-302, committed:

- (1) To facilitate the commission of any felony or flight thereafter;
- (2) To interfere with the performance of any governmental or political function;
- (3) With the intent to inflict serious bodily injury on or to terrorize the victim or another;
- (4) Where the victim suffers bodily injury; or
- (5) While the defendant is in possession of a deadly weapon or threatens the use of a deadly weapon.

107

39-13-305. Especially aggravated kidnapping.

(a) Especially aggravated kidnapping is false imprisonment, as defined in § 39-13-302:

- (1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon;
- (2) Where the victim was under the age of thirteen (13) at the time of the removal or confinement;
- (3) Committed to hold the victim for ransom or reward, or as a shield or hostage; or
- (4) Where the victim suffers serious bodily injury.

108

Theft

Chapter 14

Part 1

109

Theft

39-14-103

v.

Shoplifting?

39-14-146

Show me the \$\$\$

Misdemeanor or Felony?



110

VALUES

Effective 1/1/2017

\$1000 or less = A Misdemeanor

\$1000 but less than \$2500 = E Felony

\$2500 but less than \$10,000 = D Felony

\$10,000 but less than \$60,000 = C Felony

\$60,000 but less than \$250,000 = B Felony

\$250,000 or more = A Felony



TCA 39-14-105

111

Can you aggregate multiple thefts?



TCA 39-14-105(b)

112

Yes!

In a prosecution for theft of property, theft of services, and any offense for which the punishment is determined pursuant to this section, the state may charge multiple criminal acts committed against one (1) or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent or enterprise.



TCA 39-14-105(b)

113

39-14-146. Theft of property -- Conduct involving merchandise. Effective 7/1/17

- (a) For purposes of § 39-14-103, a person commits theft of property if the person,
 - (6) Removes, destroys, deactivates, or evades any component of an anti-shoplifting or inventory control device to commit or facilitate a theft;
 - (7) Uses any artifice, instrument, container, device, or other article to commit or facilitate a theft; or
 - (8) Activates or interferes with a fire alarm system to commit or facilitate a theft.

114

39-14-146. Theft of property -- Conduct involving merchandise. Effective 7/1/17

- **(b)** In a theft prosecution under this section, unless applicable, the state is not required to prove that the defendant obtained or exercised control over the merchandise as required in a prosecution under § 39-14-103.
- **(c)** Notwithstanding any other law, a fifth or subsequent conviction in a two-year period shall be punished one (1) classification higher than provided by § 39-14-105, and subject to a fine of not less than three hundred dollars (\$300) nor more than the maximum fine established for the appropriate offense classification

115

39-14-146. Theft of property -- Conduct involving merchandise. Effective 7/1/17

- **(b)** In a theft prosecution under this section, unless applicable, the state is not required to prove that the defendant obtained or exercised control over the merchandise as required in a prosecution under § 39-14-103.
- **(c)** Notwithstanding any other law, a fifth or subsequent conviction in a two-year period shall be punished one (1) classification higher than provided by § 39-14-105, and subject to a fine of not less than three hundred dollars (\$300) nor more than the maximum fine established for the appropriate offense classification

116

39-14-113. Organized Retail Crime Prevention Act.
Effective 7/1/2017

- **(c)** A person commits the offense of organized retail crime when the person:
 - **(1)** Works with one (1) or more persons to commit theft of any merchandise with a value exceeding one thousand dollars (\$1,000) aggregated over a ninety-day period with the intent to sell that property for monetary or other gain, or to fraudulently return the merchandise to a retail merchant; or
 - **(2)** Receives, possesses, or purchases any merchandise or stored value cards obtained from a fraudulent return with the knowledge that the property was obtained in violation of § 39-14-103 or § 39-14-146.

117

T. C. A. § 39-14-103
§ 39-14-103. Theft of property

- (a) A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.
- (b)(1) As a condition of pretrial diversion, judicial diversion, probation or parole for a violation of subsection (a) when the violation occurs as set out in subdivision (b)(2), the person may be required to perform debris removal, clean-up, restoration, or other necessary physical labor at a location within the area affected by the disaster or emergency that is in the county where the offense occurred.
- (2) The condition of pretrial diversion, judicial diversion, probation or parole containing the requirement set out in subdivision (b)(1) may be used if the violation of subsection (a) occurs:
- (A) During or within thirty (30) days following the occurrence of a tornado, flood, fire, or other disaster or emergency, as defined in § 58-2-101;
- (B) Within the area affected by the disaster or emergency; and
- (C) When, as a result of the disaster or emergency, the owner of the property taken, or the person charged with custody of the property, is unable to adequately guard, secure or protect the property from theft.
- (3) Subdivision (b)(2) shall apply regardless of whether a state of emergency has been declared by a county, the governor, or the president of the United States at the time of or subsequent to the theft.
- (4) Any period of physical labor required pursuant to subdivision (b)(1) shall not exceed the maximum sentence authorized pursuant to § 39-14-105.

118

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 11/18/2014
in the city of H County, Tennessee, 7044 Archibald, Amber
committed the offense(s) of violation(s) of T.C.A. § 39-14-146 Shoplifting
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
information is believable and reliable are as follows:
On 11/18/14 Amber Archibald was observed shoplifting from Wal-Mart by (Loss Prevention Agent). She also admitted
to taking the miscellaneous items on 2 separate dates. Total cost of all the items taken is \$485.13.

Where's the meat?

119

State of Tennessee vs. David Myres Brantley

Court File # 2015CR-715 Agency Case # 15-000239 Warrant # 201502069

AFFIDAVIT OF COMPLAINT

The undersigned affiant, after being duly sworn according to the law, states that Defendant
committed the offense of: Theft Over \$500/under \$1,000
in the above county on or about 01/20/2015.

Further, affiant makes oath that the essential facts constituting said offense, the sources of affiant's
information, and the reasons why his/her information is believable concerning said facts are as
follows:

TCA: 39-14-103

et al CLASS: E Felony per magistrate

On 1/7/15 and 1/20/15, a subject later identified as David Brantley took televisions from Wal Mart, 3600 Mallory
Lane in TN without making payment. The televisions are valued at approximately \$756.00.

Where's the meat?

120

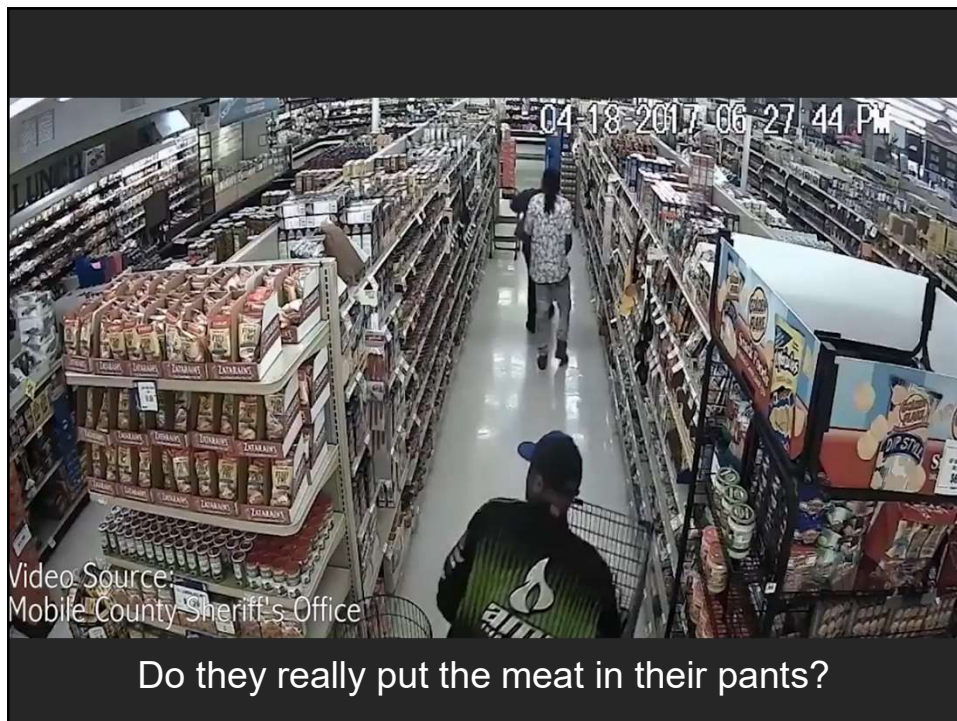
AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 1/19/2015
in the city of County, Tennessee, 4100 Warden, Ellariene
committed the offense(s) of violation(s) of T.C.A. § 39-14-103D Theft Of Property
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
information is believable and reliable are as follows:

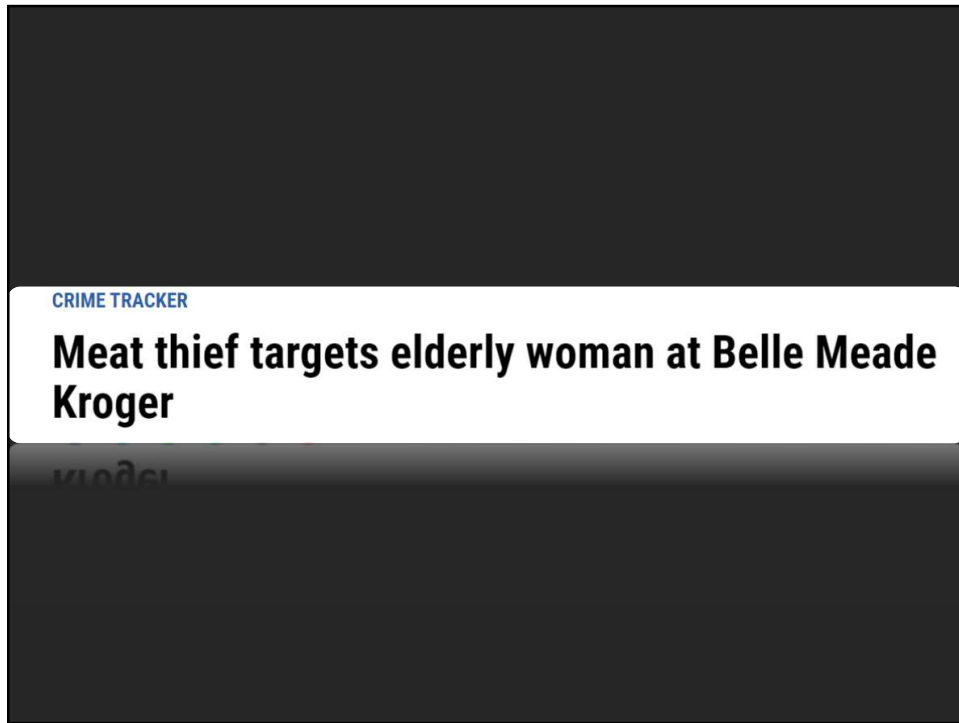
On 1-19-2015 at 7:19 PM, a female identified as Ellariene C Warden went into Wal Mart and attempted to buy groceries, but the payment was declined. She then removed a plastic bag containing 2 packages of ground beef from the shopping cart. She then goes to register 10 and buys two packs of cigarettes, but does not pay for the items in the bag. After paying for the cigarettes she leaves the store carrying the plastic bag containing the ground beef. Ellariene C Warden committed the crime of theft by leaving the store without paying for the items which were valued at \$9.96. Wal Mart asset protection employee James King also asks that she be banned from Wal Mart.

What did she do with the meat?

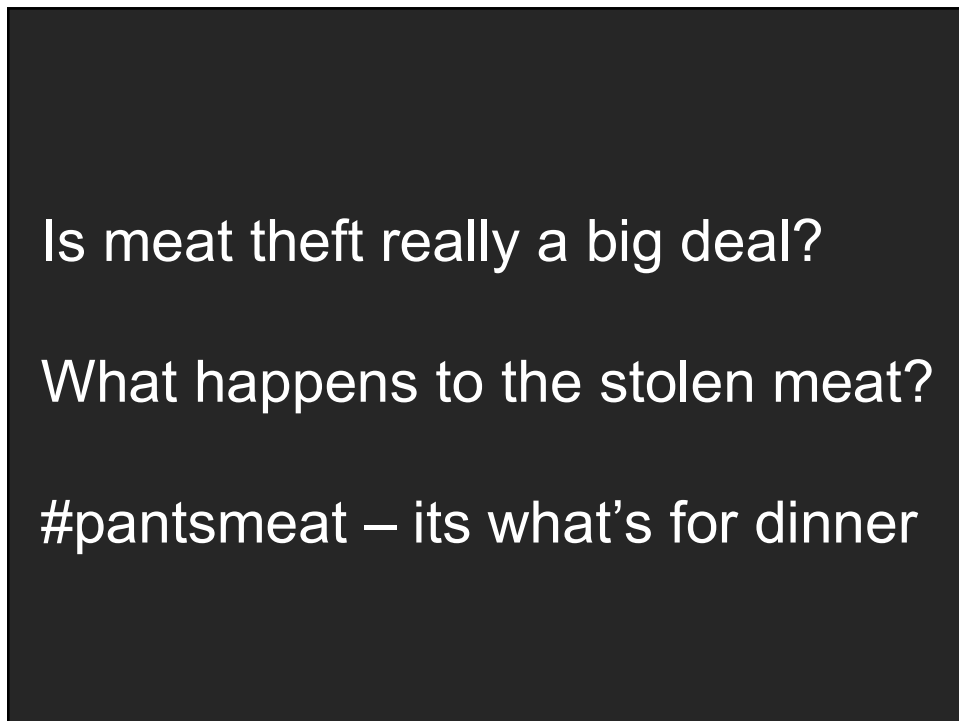
121



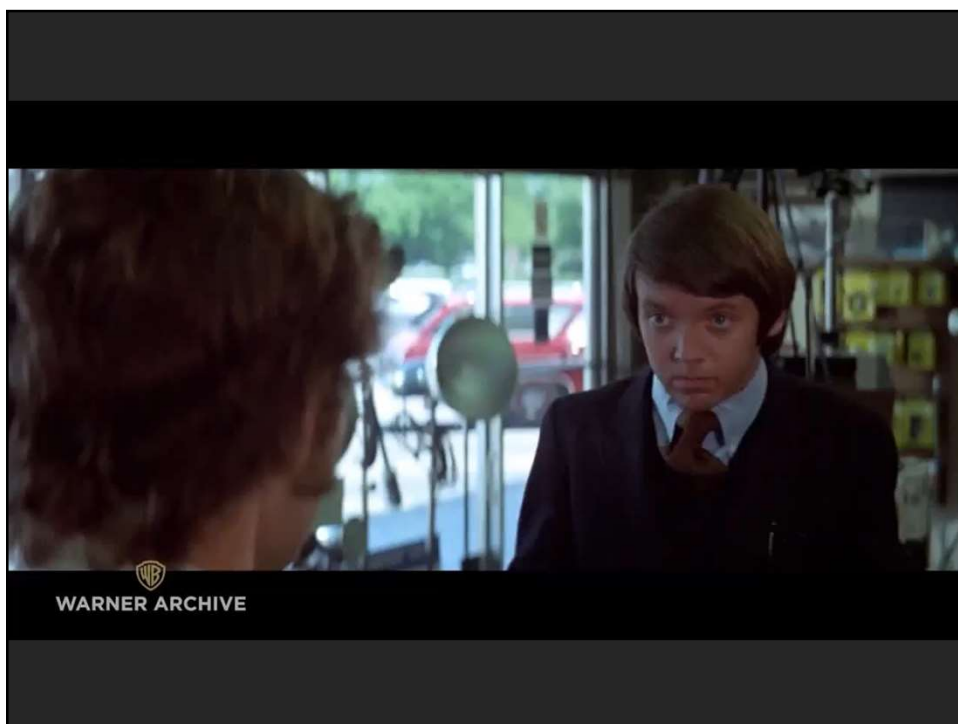
122



123



124



125



126

~~39-14-402.~~ Burglary. **Now 39-13-1002**

- **(a)** A person commits burglary who, without the effective consent of the property owner:
 - **(1)** Enters a building other than a habitation (or any portion thereof) not open to the public, **with intent** to commit a felony, theft or assault;
 - **(2)** Remains concealed, with the intent to commit a felony, theft or assault, in a building;
 - **(3)** Enters a building and commits or attempts to commit a felony, theft or assault; or
 - **(4)** Enters any freight or passenger car, automobile, truck, trailer, boat, airplane or other motor vehicle with intent to commit a felony, theft or assault or commits or attempts to commit a felony, theft or assault.
- **(b)** As used in this section, "enter" means:
 - **(1)** Intrusion of **any part of the body**; or
 - **(2)** Intrusion of any object in physical contact with the body or any object controlled by remote control, electronic or otherwise.

127

Can you charge burglary if a person enters a store with the intent to commit a theft?



128

YES!

sort of

Tennessee Supreme Court affirmed February 19, 2020. See *State v. Abbie Leann Welch*, 595 S.W.3d 615

129

“We hold that Tennessee Code Annotated section 39-14-402 is not unconstitutionally vague and that subsection 39-14-402(a)(3) provides fair warning to a person of common intelligence that a person commits burglary if the person enters a building and commits a felony, theft, or assault after the owner revokes its consent for the person to enter.”

Tennessee v. Ivey, July 24, 2018 Court of Criminal Appeals and Cited by State v. Abbie Leann Welch, January 23, 2019 (cert accepted May 17, 2019).

130

. . . that is otherwise open to the
public but from which that
individual has been banned . .

131

What makes Burglary
aggravated?

TCA §39-13-1003

132



133

~~39-14-401~~. Definitions for burglary and related offenses. **Now 39-13-1001**

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

(1) "Habitation":

- (A) Means any structure, including buildings, module units, mobile homes, trailers, and tents, which is designed or adapted for the overnight accommodation of persons;
- (B) Includes a self-propelled vehicle that is designed or adapted for the overnight accommodation of persons and is actually occupied at the time of initial entry by the defendant; and
- (C) Includes each separately secured or occupied portion of the structure or vehicle and each structure appurtenant to or connected with the structure or vehicle;

134

~~39-14-401~~. Definitions for burglary and related offenses. **Now 39-13-1001**

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

(1) "Habitation":

- (A) Means any structure, including buildings, module units, mobile homes, trailers, and tents, which is designed or adapted for the overnight accommodation of persons;
- (B) Includes a self-propelled vehicle that is designed or adapted for the overnight accommodation of persons and is actually occupied at the time of initial entry by the defendant; and
- (C) Includes each separately secured or occupied portion of the structure or vehicle and each structure appurtenant to or connected with the structure or vehicle;

135

False Report

39-16-502

(Officers LOVE this one)

136

§ 39-16-502. False reports

(a) It is unlawful for any person to:

(1) **Initiate a report or statement to a law enforcement officer** concerning an offense or incident within the officer's concern knowing that:

(A) The offense or incident reported did not occur;

(B) The person has no information relating to the offense or incident reported; **or**

(C) The information relating to the offense reported is false; **or**

(2) **Make a report or statement in response to a legitimate inquiry by a law**

enforcement officer concerning a material fact about an offense or incident within the officer's concern, knowing that the report or statement is false and with the intent to obstruct or hinder the officer from:

(A) Preventing the offense or incident from occurring or continuing to occur; **or**

(B) Apprehending or locating another person suspected of committing an offense; **or**

(3) Intentionally initiate or circulate a report of a past, present, or impending bombing, fire or other emergency, knowing that the report is false or baseless and knowing:

(A) It will cause action of any sort by an official or volunteer agency organized to deal with those emergencies;

(B) It will place a person in fear of imminent serious bodily injury; **or**

(C) It will prevent or interrupt the occupation of any building, place of assembly, form of conveyance, or any other place to which the public has access.

any other place to which the public has access:

(C) It will place a person in fear of imminent serious bodily injury; **or**

(B) It will place a person in fear of imminent serious bodily injury; **or**

emergencies:

137

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 4/25/2015
in the city of County, Tennessee, 5466 Davis, Cheyenne

committed the offense(s) of violation(s) of T.C.A. § 39-16-502A False Reports

I further state under oath that the essential facts constituting the offense(s), the sources of my information and the reasons why this information is believable and reliable are as follows:

Cheyenne John Dillon Chapin Davis did make a written statement, at 111 West Main Street, in response to a legitimate inquiry by a law enforcement officer concerning a material fact about an offense or incident within the officer's concern, knowing that the statement was false and with the intent to obstruct or hinder the officer from preventing the offense from continuing to occur or apprehending or locating another person suspected of committing an offense.

138

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 11/19/2017
in the city of [redacted] County, Tennessee, 2397 Smith, Carl
committed the offense(s) of violation(s) of T.C.A. § 39-16-502A False Reports
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why th
information is believable and reliable are as follows:

On 11/19/2017 Adam Smith was the driver of a vehicle that was involved in a motor vehicle accident. Adam Smith gave
information that Jessica Stacy was the driver of the vehicle. This put Jessica Stacy in the position to receive a citation. It was
learned that Jessica Stacy was not the driver of the vehicle. The statements made by Adam Smith constitute filing a false report

139

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about May 25, 2017 in [redacted] County, Tennessee,
Ashley Nichole Northington committed the offense of Violation of TCA: 39-16-502 False Reports
I further state under oath that the essential facts constituting the offense, the sources of my information and the reasons why this information is
believable and reliable are as follows:

On May 25, 2017 I observed a white male operating a motor vehicle on Bates Crossing Road in Nunnelly
TN. where I was parked, observing traffic. The driver stopped in the roadway, and turned into a field. The
driver then drove along the field, to a wooded area, exited the vehicle and ran to a nearby home, along with
a white female who was seated in the passenger seat.

I knocked on the door of the home and advised the homeowner, Richard Ritchie Sr., to ask the two subjects
to come outside. I heard them running back and forth inside the home. Then Mr. Matthew Scott Murphree
and Ashley Nichole Northington exited. I detained Murphree, as he was the one driving the vehicle and I
knew through past contacts he had a suspended drivers license. Murphree denied driving. I asked
Northington, who is Murphree's girlfriend, if she had been driving, she stated she had. I advised her that I
observed the driver through binoculars and knew it was a male driving.

Northington was read Miranda warnings and questioned again. She advised she knew I was a law
enforcement officer, and intentionally mislead me because that's what "a good old lady does."

Ashley Nichole Northington made a response to a legitimate inquiry by a law enforcement officer
concerning a material fact about an offense withing the officers concern, knowing that the report or
statement is false and with intent to obstruct the officer.

140

Obstruction of Justice Chapter 16 Part 6

141

Resisting Arrest
39-16-602
v.
Evading Arrest
39-16-603
v.
Escape
39-16-605

142

§ 39-16-602. Obstruction of law enforcement; preventing service of process

- (a) It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at the officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using **force** against the law enforcement officer or another.
- (b) Except as provided in § 39-11-611, it is no defense to prosecution under this section that the stop, frisk, halt, arrest or search was unlawful.
- (c) It is an offense for a person to intentionally prevent or obstruct an officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute, any legal writ or process.
- (d) A violation of this section is a Class B misdemeanor unless the defendant uses a deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in which event the violation is a Class A misdemeanor.

Which event the violation is a Class A misdemeanor:
 deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in
 (q) A violation of this section is a Class B misdemeanor unless the defendant uses a
 deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in

143

§ 39-16-602. Obstruction of law enforcement; preventing service of process

- (a) It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at the officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using **force** against the law enforcement officer or another.
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Which event the violation is a Class A misdemeanor:
 deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in
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 deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in

144

“Force” means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title

TCA 39-11-106(14)

145

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 12/3/2016
in the city of County, Tennessee, 3354 Szostek, Robert
committed the offense(s) of violation(s) of T.C.A. § 39-16-602 Resisting Stop, Arrest
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this information is believable and reliable are as follows:

On 12/03/2016, Officer was attempting to arrest Robert Szostek on active warrants. Szostek refused to comply with officers verbal commands and physically pulled away from Officer while attempting to handcuff him.

146

§ 39-16-603. Evading arrest

(a)(1) Except as provided in subsection (b), it is unlawful for any person to intentionally conceal themselves or flee by any means of locomotion from anyone the person knows to be a law enforcement officer if the person:

(A) Knows the officer is attempting to arrest the person; or

(B) Has been arrested.

(2) It is a defense to prosecution under this subsection (a) that the attempted arrest was unlawful.

(3) A violation of subsection (a) is a Class A misdemeanor.

(b)(1) It is unlawful for any person, while operating a motor vehicle on any street, road, alley or highway in this state, to intentionally flee or attempt to elude any law enforcement officer, after having received any signal from the officer to bring the vehicle to a stop.

(2) It is a defense to prosecution under this subsection (b) that the attempted arrest was unlawful.

(3)(A) Except as provided in subdivision (b)(3)(B), a violation of this subsection (b) is a Class E felony and shall be punished by confinement for not less than thirty (30) days.

(B) If the flight or attempt to elude creates a risk of death or injury to innocent bystanders, pursuing law enforcement officers, or other third parties, a violation of this subsection (b) is a Class D felony and shall be punished by confinement for not less than sixty (60) days.

§ 39-16-603. Evading arrest
 (a)(1) Except as provided in subsection (b), it is unlawful for any person to intentionally conceal themselves or flee by any means of locomotion from anyone the person knows to be a law enforcement officer if the person:
 (A) Knows the officer is attempting to arrest the person; or
 (B) Has been arrested.
 (2) It is a defense to prosecution under this subsection (a) that the attempted arrest was unlawful.
 (3) A violation of subsection (a) is a Class A misdemeanor.
 (b)(1) It is unlawful for any person, while operating a motor vehicle on any street, road, alley or highway in this state, to intentionally flee or attempt to elude any law enforcement officer, after having received any signal from the officer to bring the vehicle to a stop.
 (2) It is a defense to prosecution under this subsection (b) that the attempted arrest was unlawful.
 (3)(A) Except as provided in subdivision (b)(3)(B), a violation of this subsection (b) is a Class E felony and shall be punished by confinement for not less than thirty (30) days.
 (B) If the flight or attempt to elude creates a risk of death or injury to innocent bystanders, pursuing law enforcement officers, or other third parties, a violation of this subsection (b) is a Class D felony and shall be punished by confinement for not less than sixty (60) days.

147

39-16-602. Resisting stop, frisk, halt, arrest or search — Prevention or obstruction of service of legal writ or process.

(a) It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at the officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using force against the law enforcement officer or another.

(b) Except as provided in § 39-11-611, it is no defense to prosecution under this section that the stop, frisk, halt, arrest or search was unlawful.

(c) It is an offense for a person to intentionally prevent or obstruct an officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute, any legal writ or process.

(d) A violation of this section is a Class B misdemeanor unless the defendant uses a deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in which event the violation is a Class A misdemeanor.

(e) A violation of this section is a Class B misdemeanor unless the defendant uses a deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in which event the violation is a Class A misdemeanor.

148

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 8/15/17
in Sevier County, Tennessee, BREWER DANIEL LEE committed the offense(s) of
violation(s) of T.C.A. § RESISTING ARREST 39-16-602(a). I further state under oath
that the essential facts constituting the offense(s), the sources of my information and the reasons why this information is believable
and reliable are as follows: ON 8/15/17 I SERVED MULTIPLE ARREST WARRANTS ON DANIEL LEE BREWER AT 117
HICKORY LANE WHEN HE OPENED THE FRONT DOOR AND SAW ME, A UNIFORMED DEPUTY SHERIFF. I
SHOUTED, " STOP I HAVE WARRANTS, YOU ARE UNDER ARREST" . BREWER STEPPED BACK INSIDE AND RAN
INTO THE FRONT BEDROOM. WHEN I ENTERED THE HOUSE HE RAN TO THE REAR OF THE MOBILE HOME AS I
SHOUTED, YOU ARE UNDER ARREST. BREWER THEN JUMPED THRU THE REAR WINDOW. BREWER DID
INTENTIONALLY PREVENT OR OBSTRUCT ME FROM TAKING HIM INTO CUSTODY BY JUMPING THRU THE
WINDOW.

149



150

§ 39-16-605. Escape

(a) It is an offense for any lawfully confined person arrested for, charged with, or found guilty of a civil or criminal offense to escape from a penal institution, as defined in § 39-16-601.

(b)(1) A person commits the offense of escape who is in the lawful custody of a law enforcement officer and knowingly escapes the officer's custody.

(2) As used in subdivision (b)(1), "lawful custody" means a person has been taken, seized or detained by a law enforcement officer either by handcuffing, restraining or any other method by which a reasonable person would believe places the person in custody and that otherwise deprives the person's freedom of action in a significant way.

deprives the person's freedom of action in a significant way.
person would believe places the person in custody and that otherwise
handcuffing, restraining or any other method by which a reasonable

151

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 12/3/2016
in the city of [REDACTED] County, Tennessee, 3354 Szostek, Robert
committed the offense(s) of violation(s) of T.C.A. § 39-16-603 Evading Arrest
I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
information is believable and reliable are as follows:

On 12/03/2016, Officer [REDACTED] was attempting to arrest Robert Szostek on active warrants. Szostek refused to comply with
officers verbal commands and physically pulled away from Officer Bridges while attempting to handcuff him. Robert Szostek then
fled on foot on North [REDACTED] Street to evade arrest.

152



153

What do you charge?

Resisting Arrest?
Evading Arrest?
Escape?

154

Tampering with Evidence

155

39-16-503. Tampering with or fabricating evidence.

(a) It is unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to:

- (1) Alter, destroy, or conceal any record, document or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or
- (2) Make, present, or use any record, document or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.

(b) A violation of this section is a Class C felony.

(c) A violation of this section is a Class C felony.

156



157

Drugs

Chapter 17

Part 4

158

SIMPLE V. RESALE



Weight is not enough!

Weight is not enough!

Weight is not enough!

Weight is not enough!

159

Misdemeanor v. Felony?



§ 39-17-418

Possess

Casual Exchange

Distribute marijuana not in excess of ½ ounce

§ 39-17-417

Manufacture

Deliver

Sell

Possess with INTENT to manufacture, deliver or sell

§ 39-17-434

Methamphetamine

160

Misdemeanor v. Felony



(d) Casual Exchange between an adult and a minor when the adult is two years older than the minor and knows he/she is a minor is a felony.

161

Methamphetamine



§ 39-17-434

Include as your last sentence that this is a simple possession or resale.

162

AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 3/31/2015
 in the city of County, Tennessee, 3805 Runions, Jennie
 committed the offense(s) of violation(s) of T.C.A. § 39-17-434 Methamphetamine-Manufacture, Deliver, Sell, Possess
 I Further state under oath that the essential facts constitution the offense(s), the sources of my information and the reasons why this
 information is believable and reliable are as follows:

On 03-31-15 I was patrolling on South Walnut when I noticed the vehicle in front me was in violation of tag display. I made a traffic stop. On my approach I found Jennie Runions to be the driver. Sheena Frazier was in the front passenger seat and Ashley Bridge was in the back seat. I asked Runions for her drivers license, proof of insurance and registration. Runions handed me her license and informed me she did not have the other documents in her possession. K-9 officer arrived along with officer . K-9 officer asked the suspects to exit the vehicle so he could run his narcotics sniffing K-9 around the vehicle. K-9 officer informed me that K-9 Minnie gave a positive alert to a narcotic odor coming from inside of the vehicle. Myself and officer searched the suspect vehicle. I searched a black purse, which contained a make-up bag that had a clear bag with a white powder substance (.7 grams), which field tested positive for meth. Also located in the make-up bag was needle. Runions identification was located in the purse that the make-up bag was located in. Runions was read Miranda and stated everything in the purse was hers.

163

Drug Free Zone

§ 39-17-432



One Classification Higher if you have § 39-17-417 AND:

- (A) On the grounds or facilities of any school; or
- (B) Within five hundred feet (500') of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

164

AMENDED AFFIDAVIT OF COMPLAINT

I, the affiant named below, after being sworn, state under oath that on or about 4/21/2018 in [redacted] County, Tennessee, Elizabeth McCrory committed the offense(s) of violation(s) of T.C.A. § 39-17-434 (a)-METH - MFG. DEL. SALE, POSS. WITH INTENT - 1/2 GRAM - DRUG FREE ZN. I further state under oath that the essential facts constituting the offense(s), the sources of my information and the reasons why this information is believable and reliable are as follows:

On April 21, 2018 I observed a vehicle traveling on Old Hwy 13 South. I positively identified the driver as a person whom I knew to have a revoked driver's license. I pulled behind the vehicle and the driver turned into the entrance of Veteran's Park. The driver parked in the lot beside the children's playground and I spoke with the driver after she parked the vehicle. I verified that the driver was Elizabeth McCrory and verified that her license status was revoked. I asked her for permission to look inside of the vehicle that she was driving and she consented, stating "Yeah, go ahead there's nothing in there." While looking in the front seat, where there were several articles of clothing, I observed a green and white pill bottle laying under some clothing. The bottle contained 18 Loratadine 1 mg tablets and a cellophane wrapper from a cigarette pack that was rolled up inside the bottle. The wrapper contained the drug and had not used any yet. The substance had an estimated gross weight of .2 grams and field tested positive for methamphetamine. I observed Elizabeth McCrory deliberately, knowingly and voluntarily entered Veteran's Park in Linden with a known controlled substance inside of the vehicle.

165



166

New Statutes

2022 and 2023

167

July 1, 2023

Fentanyl over .5 grams = B Felony

Voluntary Manslaughter = B Felony
(was a C Felony)

168

39-13-111 & 39-13-102 & 40-11-115

This bill requires a defendant convicted of domestic assault involving strangulation to serve a mandatory minimum sentence of 30 days of incarceration. It also specifies that the defendant could be charged with attempted second-degree murder if the victim loses consciousness as a result of the strangulation.

169

39-14-705

As enacted, creates a Class A misdemeanor offense for the possession of a device, tool, machine, implement, or other item capable of programming a smart key fob with the intent to use it or allow it to be used to commit theft.

170

39-17-315

This bill adds the placement of a tracking device, such as an Apple Tag, on a person or on his or her property to the list of stalking offenses.

171

40-35-115

The bill allows a court to impose consecutive sentences for a defendant who has committed multiple criminal offenses against multiple victims

172

7-51-1401 & 1407

Creates an offense for a person who engages in an adult cabaret performance on public property or in a location where the adult cabaret performance could be viewed by a person who is not an adult. Must be on public property in a location where a minor could view.

173

39-17-315

As enacted, expands the offense of aggravated stalking to include a person who commits stalking against a victim who is at least 65 or older.

174

July 1, 2022

175

40-11-118(d) 7/1/22

- **(d)(1)(A)** Unless the court determines that the requirement would not be in the best interest of justice and public safety, when the court is determining the amount and conditions of bail to be imposed upon a defendant who has been charged with driving under the influence of an intoxicant, under § 55-10-401, vehicular assault, under § 39-13-106, aggravated vehicular assault, under § 39-13-115, vehicular homicide, under § 39-13-213(a)(2), or aggravated vehicular homicide, under § 39-13-218, and the alleged offense involved the use of alcohol, the court shall require the defendant to operate only a motor vehicle equipped with a functioning ignition interlock device if:
 - **(i)** The offense resulted in a collision involving property damage;
 - **(ii)** A minor was present in the vehicle at the time of the alleged offense;
 - **(iii)** The defendant's driver license has previously been suspended for a violation of § 55-10-406; or
 - **(iv)** The defendant has a prior conviction for:
 - **(a)** Reckless driving, under § 55-10-205;
 - **(b)** Reckless endangerment, under § 39-13-103;
 - **(c)** Driving under the influence of an intoxicant, under § 55-10-401;
 - **(d)** Vehicular assault, under § 39-13-106;
 - **(e)** Aggravated vehicular assault, under § 39-13-115;
 - **(f)** Vehicular homicide, under § 39-13-213(a)(2); or
 - **(g)** Aggravated vehicular homicide, under § 39-13-218.

176

40-11-118(d) 7/1/22

- **(d)(1)(A)** Unless the court determines that the requirement would not be in the best interest of justice and public safety, when the court is determining the amount and conditions of bail to be imposed upon a defendant who has been charged with driving under the influence of an intoxicant, under § 55-10-401, vehicular assault, under § 39-13-106, aggravated vehicular assault, under § 39-13-115, vehicular homicide, under § 39-13-213(a)(2), or aggravated vehicular homicide, under § 39-13-218, **and the alleged offense involved the use of alcohol**, the court **SHALL** require the defendant to operate only a motor vehicle equipped with a functioning ignition interlock device if:
 - **(i)** The offense resulted in a collision involving property damage;
 - **(ii)** A minor was present in the vehicle at the time of the alleged offense;
 - **(iii)** The defendant's driver license has previously been suspended for a violation of § 55-10-406; **OR**
 - **(iv)** The defendant has a prior conviction for:
 - **(a)** Reckless driving, under § 55-10-205;
 - **(b)** Reckless endangerment, under § 39-13-103;
 - **(c)** Driving under the influence of an intoxicant, under § 55-10-401;
 - **(d)** Vehicular assault, under § 39-13-106;
 - **(e)** Aggravated vehicular assault, under § 39-13-115;
 - **(f)** Vehicular homicide, under § 39-13-213(a)(2); **OR**
 - **(g)** Aggravated vehicular homicide, under § 39-13-218.

177

40-11-118(d) 7/1/22

- **(d)(1)(A)** Unless the court determines that the requirement would not be in the best interest of justice and public safety, when the court is determining the amount and conditions of bail to be imposed upon a defendant who has been charged with driving under the influence of an intoxicant, under § 55-10-401, vehicular assault, under § 39-13-106, aggravated vehicular assault, under § 39-13-115, vehicular homicide, under § 39-13-213(a)(2), or aggravated vehicular homicide, under § 39-13-218, **and the alleged offense involved the use of alcohol**, the court **SHALL** require the defendant to operate only a motor vehicle equipped with a functioning ignition interlock device if:
 - **(i)** The offense resulted in a collision involving property damage;
 - **(ii)** A minor was present in the vehicle at the time of the alleged offense;
 - **(iii)** The defendant's driver license has previously been suspended for a violation of § 55-10-406; **OR**
 - **(iv)** The defendant has a prior conviction for:
 - **(a)** Reckless driving, under § 55-10-205;
 - **(b)** Reckless endangerment, under § 39-13-103;
 - **(c)** Driving under the influence of an intoxicant, under § 55-10-401;
 - **(d)** Vehicular assault, under § 39-13-106;
 - **(e)** Aggravated vehicular assault, under § 39-13-115;
 - **(f)** Vehicular homicide, under § 39-13-213(a)(2); **OR**
 - **(g)** Aggravated vehicular homicide, under § 39-13-218.

178

SB1610/HB978Sponsors
Summary**Solicitation or camping along a controlled-access highway or entrance or exit ramp.**

Sen. Bailey, Paul; Rep. Williams, Ryan
Creates a Class C misdemeanor offense, punishable only by a \$50 fine and community service work between 20 and 40 hours, for camping along a controlled-access highway or entrance or exit ramp. Expands the Public Property Act of 2012 to apply the offense of unauthorized camping on local government properties. The current penalty for this Act is an E felony.
(Dated February 21, 2021) NOT SIGNIFICANT
[PC986.pdf](#)
07/01/22

Fiscal Note
Public Chapter
Effective Date**SB1673/HB1661**Sponsors
Summary**Offense for aggravated reckless driving.**

Sen. Stevens, John; Rep. Gillespie, John
Creates a new offense of aggravated reckless driving. Specifies that a person commits this offense when he or she commits the offense of reckless driving and intentionally impedes traffic upon a public street or any other premises accessible to motor vehicles that are generally frequented by the public. Specifies that a violation is a Class A misdemeanor and authorizes the court to assess an additional fine of up to \$2,500 against a person convicted of aggravated reckless driving.
(Dated January 19, 2022) Increase Local Expenditures - \$33,100/FY22-23 and Subsequent Years*
[PC1022.pdf](#)
07/01/22

Fiscal Note
Public Chapter
Effective Date

179

SB2012/HB1833Sponsors
Summary**Expands the offense of aggravated criminal littering.**

Sen. Bell, Mike; Rep. Hall, Mark
Expands the offense of aggravated criminal littering to include knowingly placing, dropping, or throwing one or more tires on any public or private property without permission and without immediately removing it. Classifies aggravated criminal littering as a Class A misdemeanor if it involves less than four tires and a Class E felony for four or more tires.
(Dated February 1, 2022) Increase Local Expenditures - \$2,300/FY22-23 and Subsequent Years*
[PC1105.pdf](#)
07/01/22

Fiscal Note
Public Chapter
Effective Date**SB2070/HB2424**Sponsors
Summary**Increases the penalty for mitigated criminal littering.**

Sen. Campbell, Heidi; Rep. Sparks, Mike
Increases penalties for littering from a Class C misdemeanor with a 50\$ fine to a Class B misdemeanor with a 500\$ fine.
(Dated February 1, 2022) NOT SIGNIFICANT
[PC899.pdf](#)
07/01/22

Fiscal Note
Public Chapter
Effective Date

180

SB2362/HB2459 Expands the offense of unlawful photography.

Sponsors Sen. Bowling, Janice; Rep. Rudder, Iris
 Summary Creates a more extensive offense for persons partaking in unlawful photography to include the photographing of an individual without consent; including the unclothed intimate area of the individual; if it would be considered offensive or embarrassing by the individual; if it was distributed by the defendant, or the defendant threatened to share the photograph.
 Fiscal Note (Dated March 2, 2022). NOT SIGNIFICANT
 Public Chapter [PC920.pdf](#)
 Effective Date 07/01/22

SB2841/HB2244 Creation of New Sex Offenses.

Sponsors Sen. Hensley, Joey; Rep. Ogles, Brandon
 Summary Creates Class A felony offenses of especially aggravated rape, especially aggravated rape of a child, and grave torture. Requires individuals convicted to be sentenced to life without possibility of parole. Requires sentence for a juvenile convicted to be as a Range III offender. Authorizes an individual convicted of grave torture be sentenced to death upon following either the issuance of the judgement in a decision of the United States Supreme Court overruling, in whole or in part, Kennedy v. Louisiana, 554 U.S. 407 (2008), allowing the use of the death penalty for such an offense or ratification of an amendment to the Constitution of Tennessee approving the use of the death penalty for such offense.
 Fiscal Note (Dated February 1, 2022) NOT SIGNIFICANT
 Public Chapter [PC1062.pdf](#)
 Effective Date 07/01/22

SB1786/HB1922 Restrictions on sexual offenders.

Sponsors Sen. Lundberg, Jon; Rep. Hicks, Tim
 Summary Prohibits a sexual offender, violent sexual offender, or a violent juvenile sexual offender from knowingly renting or offering to rent a swimming pool, hot tub, or other body of water to be used for swimming that is owned by the offender. Specifies that a violation of the prohibition a Class A misdemeanor.
 Fiscal Note (Dated January 25, 2022) NOT SIGNIFICANT
 Public Chapter [PC1058.pdf](#)
 Effective Date 07/01/22

181

SB1802/HB1763 Definition of drug paraphernalia.

Sponsors Sen. Reeves, Shane; Rep. Lamberth, William
 Summary Expands the definition of drug paraphernalia to include pill press devices and pieces of a pill press device unless the pill press device or piece of a pill press device is used by a person or entity that lawfully possesses drug products in the course of legitimate business activities.
 Fiscal Note (Dated January 24, 2022) NOT SIGNIFICANT
 Public Chapter [PC804.pdf](#)
 Effective Date 07/01/22

SB1997/HB2043 Schedule II controlled substance - tianeptine.

Sponsors Sen. Bell, Mike; Rep. Cochran, Mark
 Summary Makes tianeptine and any salt, sulfate, free acid, or other preparation of tianeptine, and any salt, sulfate, free acid, compound, derivative, or precursor that is substantially chemically equivalent or identical with tianeptine, a Schedule II controlled substance. A violation is a class A misdemeanor.
 Fiscal Note (Dated February 15, 2022) Increase State Expenditures - \$95,900 Incarceration
 Public Chapter [PC1135.pdf](#)
 Effective Date 07/01/22

SB2427/HB2177 Definition of drug paraphernalia.

Sponsors Sen. Johnson, Jack; Rep. Lamberth, William
 Summary Excludes from the definition of drug paraphernalia, narcotic testing equipment (test strips) used to determine whether a controlled substance contains a synthetic opioid unless the narcotic testing equipment is possessed for purposes of a defendant's commission of an offense of manufacturing, delivering, selling or possessing a controlled substance with intent to manufacture, deliver or sell the controlled substance. Establishes a repeal date of July 1, 2025.
 Fiscal Note (Dated February 1, 2022) NOT SIGNIFICANT
 Public Chapter [PC764.pdf](#)
 Effective Date 03/31/22

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SB2628/HB2509 Sale or possession of short-barrel rifle or shotgun.
 Sponsors Sen. Niceley, Frank; Rep. Grills, Rusty
 Summary Removes short barrel shot rifles and shotguns from the weapons list prohibited from the possession, manufacture, transport, repair, or sale under Tennessee state law.
 Fiscal Note (Dated February 3, 2022) NOT SIGNIFICANT
 Public Chapter [PC1038.pdf](#)
 Effective Date 07/01/22

SB2013/HB1646 Joker's Law.
 Sponsors Sen. Bell, Mike; Rep. Hall, Mark
 Summary Changes the penalty for injury or death to a police dog, fire dog, search and rescue dog, service animal, or police horse to be a Class D felony; and specifies that if conduct in violation of this offense is also a violation of any other criminal offense, then the offense may be prosecuted under any of the applicable statutes.
 Fiscal Note (Dated January 20, 2022) Increase State Expenditures - \$10,000 Incarceration
 Public Chapter [PC1106.pdf](#)
 Effective Date 07/01/22

SB2445/HB2677 Coercion of employee in performance of their official duties.
 Sponsors Sen. Haile, Ferrell; Rep. Leatherwood, Tom
 Summary Creates an offense of an employer influencing or attempting to influence an employee who is a public servant in the performance of their official duties as a public servant by means of coercion. Specifies that a violation is a Class E felony. Creates a cause of action against the employer for unlawful discharge of an employee who is a public servant.
 Fiscal Note (Dated February 16, 2022) Increase State Expenditures \$1,200 Incarceration
 Public Chapter [PC1142.pdf](#)
 Effective Date 07/01/22

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SB1378/HB1416 Aggravated human trafficking.
 Sponsors Sen. Bell, Mike; Rep. Curcio, Michael
 Summary Creates the offense of aggravated human trafficking as a class A felony, prevents the release eligibility of an offender convicted under this offense, and enhancing sentencing for other related trafficking offenses.
 Fiscal Note (Dated March 4, 2021) Increase State Expenditures \$190,900 Incarceration*
 Public Chapter [PC1089.pdf](#)
 Effective Date 07/01/22

SB1546/HB1459 Domestic violence - condition of release or bail.
 Sponsors Sen. Yarbro, Jeff; Rep. Hakeem, Yusuf
 Summary Authorizes a court or a magistrate to extend the minimum amount of time an offender is required to be held before release following the arrest of a person for the offense of aggravated assault in which the victim is a domestic abuse victim, in certain circumstances. Requires a court or magistrate to issue a no contact order containing applicable bond conditions for the protection of the domestic abuse victim prior to the offender's release on bond.
 Fiscal Note (Dated February 23, 2021) NOT SIGNIFICANT
 Public Chapter [PC828.pdf](#)
 Effective Date 07/01/22

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Justice

YOU are part of the check
and balance system

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Count the Crimes



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Warrants 301:

Statute Deconstruction

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