STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

August 4, 2025

Opinion No. 25-015

Statutory Restrictions Pertaining to Dual Service as a Qualified Electronic Monitoring Provider and Professional Bondsman

Question 1

In light of 2025 Tenn. Pub. Acts, ch. 491, may a qualified electronic monitoring provider be an owner, operator, or employee of a professional bondsman, as defined in Tenn. Code Ann. § 40-11-301, during the period July 1, 2025, to January 1, 2026?

Opinion 1

No.

Question 2

May a qualified electronic monitoring provider be an owner, operator, or employee of a professional bondsman, as defined in Tenn. Code Ann. § 40-11-301, on or after January 1, 2026, if the "grandfathering" carveout clause in 2025 Tenn. Pub. Acts, ch. 491, §11 applies to that provider?

Opinion 2

Likely so.

ANALYSIS

During the past year, the Tennessee General Assembly passed several acts implicating bail bondsmen, the pretrial release of criminal defendants, or both. Two of these acts notably contain a restriction pertaining to dual service as a professional bondsman and a qualified electronic monitoring provider. Both are at the center of your request.

The first of the acts at issue is 2025 Tenn. Pub Acts, ch. 253 ("Public Chapter 253"). Among other statutory amendments, Public Chapter 253 added a new section to the Tennessee Code concerning "qualified electronic monitoring providers." 2025 Tenn. Pub. Acts, ch. 253, § 1 (defining "qualified electronic monitoring providers"). And as is relevant here, it provides that "[a]n owner, operator, or employee of a professional bondsman, as defined in § 40-11-301," "shall not own, operate, direct, or serve as an employee or agent of a qualified electronic monitoring

provider." *Id.* Public Chapter 253 took effect on July 1, 2025. 2025 Tenn. Pub. Acts, ch. 253, § 8.

The second act at issue is 2025 Tenn. Pub. Acts, ch. 491 ("Public Chapter 491"). Passed shortly after Public Chapter 253, and involving the regulation of bondsmen, Public Chapter 491 provides under a different Code section that "[i]t is unlawful for a person to act as a professional bondsman, directly or indirectly," while "[o]wning, operating, or being an employee of a qualified electronic monitoring provider." 2025 Tenn. Pub. Acts, ch. 491, § 11. But of note, Public Chapter 491 also states that this prohibition "does not apply to a person who was a professional bondsman and owned a qualified electronic monitoring provider prior to January 1, 2025." *Id.*

This carveout is unique to Public Chapter 491, as similar qualifying language does not accompany the restriction applicable to the regulation of "qualified electronic monitoring providers" under Public Chapter 253.[1] But Public Chapter 491 is different in another respect too. Unlike Public Chapter 253, the portions from Public Chapter 491 cited above are not presently operative. Instead, under the act's terms, the provisions included in its § 11 will not take effect until January 1, 2026. 2025 Tenn. Pub. Acts, ch. 491, § 20.[2]

Your request refers to these acts as evidencing a "legislative discrepancy" and "conflict," and you seek guidance as to how they might be reconciled. As discussed below, our assessment inevitably differs depending on the period at issue.

1. Your primary concern appears to be related to whether Public Chapter 253 and Public Chapter 491 can be reconciled to govern present conduct. And as we understand it, you want to know whether, because of Public Chapter 491, a qualified electronic monitoring provider may also be an owner, operator, or employee of a professional bondsman during the period July 1, 2025, to January 1, 2026. The law compels us to answer that question in the negative.

It is a "long-standing rule" that a statute cannot become operative until its effective date. *State v. Keese*, 591 S.W.3d 75, 84 (Tenn. 2019). And when the General Assembly provides an effective date, that effective date "become[s] an expression of the legislative will in the form of a rule of action prescribed for the regulation of the conduct and affairs of the people." *Wright v. Cunningham*, 91 S.W. 293, 295 (Tenn. 1905). In other words, it signals "that the people shall not be compelled or permitted to act thereunder until the expiration of a time fixed." *Id.*

Here, the provisions from Public Chapter 491 that are related to your request will not take effect until January 1, 2026. 2025 Tenn. Pub. Acts, ch. 491, § 20. Given the principles above, this means that they are not presently binding. And so, whatever impact those provisions may have starting January 1, 2026—a question we address later in this Opinion—they have none before that date.

[1] *See* 2025 Tenn. Pub. Acts, ch. 253, § 1.

[2] Certain other portions of Public Chapter 491, which are not at issue in your request, are presently in effect. 2025 Tenn. Pub. Acts, ch. 491, § 20.

There is therefore nothing to reconcile between Public Chapter 253 and Public Chapter 491 insofar as your request is concerned with conduct during the period July 1, 2025, to January 1, 2026. The potentially relevant provisions of Public Chapter 491 are simply not operative.

Public Chapter 253, on the other hand, *is* operative. And under its terms, the General Assembly has spoken without equivocation. "An owner, operator, or employee of a professional bondsman" "shall not own, operate, direct, or serve as an employee or agent of a qualified electronic monitoring provider." 2025 Tenn. Pub. Acts, ch. 253, § 1. This is current law, and it can be expected that a court would apply Public Chapter 253 as written insofar as the period from July 1, 2025, to January 1, 2026, is concerned. That there may be a "legislative discrepancy" between the acts does not alter our assessment. Indeed, as this Office has stated before, "it is not the function of the courts to supply or correct a legislative oversight or omission." Tenn. Att'y Gen. Op. 19-16 (Sept. 17, 2019). And in the end, "what a statutory text does not provide is simply unprovided." *Id.*

2. The analysis differs in a post-2025 universe. Beginning January 1, 2026, § 11 of Public Chapter 491 becomes effective. 2025 Tenn. Pub. Acts, ch. 491, § 20. And it thus becomes necessary to consider how, on and after that date, Public Chapter 491 may impact the prohibition enacted by Public Chapter 253. Squarely at issue is the "grandfathering" carveout clause in § 11 pertaining to those who were "a professional bondsman and owned a qualified electronic monitoring provider prior to January 1, 2025." 2025 Tenn. Pub. Acts, ch. 491, § 11.

Questions of statutory interpretation invariably begin with a statute's text. And at the start, legislative intent is "to be ascertained primarily from the natural and ordinary meaning of the language used." *Worrall v. Kroger Co.*, 545 S.W.2d 736, 738 (Tenn. 1977). Courts will "assume that the legislature used each word in the statute purposely," *Browder v. Morris*, 975 S.W.2d 308, 311 (Tenn. 1998), and they will further presume that the General Assembly had knowledge of its prior enactments. *Cronin v. Howe*, 906 S.W.2d 910, 912 (Tenn. 1995). If statutes relate to the same subject, courts will construe those statutes together. *Wilson v. Johnson Cnty.*, 879 S.W.2d 807, 809 (Tenn. 1994).

Courts ultimately "seek the most 'reasonable construction which avoids statutory conflict and provides for harmonious operation of the laws.'" *Frye v. Blue Ridge Neuroscience Ctr., P.C.*, 70 S.W.3d 710, 716 (Tenn. 2002) (quoting *Carver v. Citizen Utils. Co.*, 954 S.W.2d 34, 35 (Tenn. 1997)). And importantly, they will presume that the General Assembly did not intend an absurdity. *New v. Dumitrache*, 604 S.W.3d 1, 14 (Tenn. 2020). Likewise, when courts construe statutory provisions, they will "do so in a manner that will not render them meaningless or useless." *Hammond v. Harvey*, 410 S.W.3d 306, 310 (Tenn. 2013); *see also Goodman v. City of Savannah*, 148 S.W.3d 88, 93 (Tenn. Ct. App. 2003) (concluding that the General Assembly had clearly intended one statute to create an exception to another).

As noted earlier, the referenced prohibition pertaining to "qualified electronic monitoring providers" within Public Chapter 253 is itself unqualified: "An owner, operator, or employee of a professional bondsman, as defined in § 40-11-301," "shall not own, operate, direct, or serve as an employee or agent of a qualified electronic monitoring provider." 2025 Tenn. Pub. Acts, ch. 253, § 1. This has been the law since July 1, 2025. 2025 Tenn. Pub. Acts, ch. 253, § 8. And in general,

Public Chapter 491's parallel restriction governing professional bondsmen certainly aligns with this law.[3] The question here, though, concerns what meaning should be given to the grandfathering carveout clause in Public Chapter 491. Indeed, although Public Chapter 491 generally provides that it is "unlawful" for a professional bondsman to simultaneously serve as a qualified electronic monitoring provider, its grandfathering carveout clause states that this prohibition "does not apply to a person who was a professional bondsman and owned a qualified electronic monitoring provider prior to January 1, 2025." 2025 Tenn. Pub. Acts, ch. 491, § 11. And it is that carveout—and its relationship to Public Chapter 253—that demands our present attention.

If a court were to conclude that Public Chapter 253 will remain in full, unqualified force starting January 1, 2026, it might reason that Public Chapter 491's carveout clause is somehow intended only to foreclose the disciplining of the implicated bondsmen who would otherwise be subject to discipline for contravening the base restriction that Public Chapter 491 imposes. That is, if a professional bondsman that also "owned a qualified electronic monitoring provider prior to January 1, 2025," continued to own that monitoring provider, that bondsman would violate the restriction imposed by Public Chapter 253, but he would not be subject to discipline in his capacity as a professional bondsman.

We are skeptical, however, that a court would find harmony between the respective public acts in this way. In fact, we believe there is a strong chance that a court would regard that construction as leading to an absurd result. Practically speaking, the reading would appear to strip the grandfathering carveout of any real utility considering that, under Public Chapter 253, *no* professional bondsman may "own, operate, direct, or serve as an employee or agent of a qualified electronic monitoring provider." 2025 Tenn. Pub. Acts, ch. 253, § 1. And ultimately, we do not think a court would interpret Public Chapter 491 so narrowly.

In our view, a court would be more likely to conclude that the General Assembly clearly intended the carveout in Public Chapter 491 to make it "lawful" to be a professional bondsman and a qualified electronic monitoring provider if one was "a professional bondsman and owned a qualified electronic monitoring provider prior to January 1, 2025." 2025 Tenn. Pub. Acts, ch. 491, § 11. This seems to be what Public Chapter 491 is signaling. After all, if the provision making such dual service "unlawful" does not apply to those falling within the parameters of the grandfathering carveout, does the grandfathering carveout not effectively countenance that behavior in limited circumstances? When read naturally and reasonably, we think the carveout does. By stating that the prohibition on professional bondsmen "[o]wning, operating, or being an employee of a qualified electronic monitoring provider"[4] does not apply to those persons meeting its terms, the grandfathering carveout clause signals that dual service is not categorically disallowed. And in this respect, we think it is probable that a court would regard the grandfathering carveout in Public Chapter 491 to serve as a limited exception to what is otherwise prohibited under Public Chapter 253. All things considered then, we believe a court faced with the question would likely conclude that, on or after January 1, 2026, a qualified electronic monitoring provider

[3] Again, under Public Chapter 491, "[i]t is unlawful for a person to act as a professional bondsman, directly or indirectly," while "[o]wning, operating, or being an employee of a qualified electronic monitoring provider." 2025 Tenn. Pub. Acts, ch. 491, § 11.

[4] 2025 Tenn. Pub. Acts, ch. 491, § 11.

may be an owner, operator, or employee of a professional bondsman if the grandfathering carveout clause from Public Chapter 491 applies to that provider.

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