

STATE OF TENNESSEE

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Opinion No. 00-171

Allocation of drug fines pursuant to Tenn. Code Ann. §39-17-428(c)

QUESTIONS

1. Did Chapter 881 of the Tennessee Public Acts of 2000, which amended Tenn. Code Ann. § 39-17-428(c), modify the manner of allocating drug fines in cases brought by judicial district drug task forces?
2. Under Tenn. Code Ann. § 39-17-428(c), as amended by Chapter 881 of the Tennessee Public Acts of 2000, does the judicial district drug task force receive all of the fines imposed in cases brought by judicial district task forces?

OPINIONS

1. No. Chapter 881 of the Tennessee Public Acts of 2000 only changes the manner of allocating drug fines in cases brought by a single law enforcement agency. It left unchanged the manner of allocating drug fines in cases brought by judicial district drug task forces.
2. No. Under Tenn. Code Ann. § 39-17-428(c), as amended by Chapter 881 of the Tennessee Public Acts of 2000, an amount equal to the mandatory minimum fine is allocated to the special fund administered by the drug task force and the balance is allocated to the general fund or funds of one or more of the counties or cities within the judicial district, as directed by the court.

ANALYSIS

1. Chapter 881 of the Tennessee Public Acts of 2000 only modified the manner for allocating fines in cases involving arrests by a single law enforcement agency. It did not alter the method for allocating fines in cases involving judicial district drug task forces. Chapter 881 of the Tennessee Public Acts of 2000 amended Tenn Code Ann. § 39-17-428(c).

The amending language is set forth in Section 1 of Chapter 881, which states, in pertinent part:

Tennessee Code Annotated, Section 39-17-428 is amended by deleting subsection (c)(1) in its entirety and substituting instead the following: (c)(1) Fifty percent (50%) of any fine collected pursuant to subsection (b) shall be allocated in the manner set out in § 39-17-420. The remaining fifty percent (50%) shall be paid to the general fund of the governing body of the law enforcement agency responsible for the investigation and arrest which resulted in the drug conviction; provided that if a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more counties and cities within the judicial district as directed by the court.

The primary purpose of statutory construction is to ascertain and give effect to the intent of the legislature. *State v. Butler*, 980 S.W.2d 359 (Tenn. 1998). In construing a statute, it is appropriate to look to the prior version of the statute to ascertain legislative intent. *State v. Levandowski*, 955 S.W.2d 603 (Tenn. 1997). The amendment should not be interpreted to render a greater change than can be found in the express language or by a giving the amendment a meaning beyond that which may be implied by necessary implication. *Winter v. Smith*, 914 S.W.2d 527 (Tenn. App. 1995).

Under the former version of Tenn. Code Ann. § 39-17-428(c), fines in cases involving a single law enforcement agency were allocated by directing that a set dollar amount be placed in the special fund established under Tenn. Code Ann. § 39-17-420.¹ The balance of the fine was allocated to the general fund of the governing body for such agency. The amount allocated to the special fund depended upon the mandatory minimum fine to be imposed in a particular case.² For example, Tenn. Code Ann. 39-17-428(c)(1)(A) provided, in pertinent part³:

The first one hundred dollars (\$100) of any fine collected pursuant to subsection (b)(1) shall be allocated in the manner set out in § 39-17-420. The remainder of the minimum fine and any amount above the minimum fine shall be paid to the general fund of the governing body of the law enforcement agency responsible for the investigation and arrest which resulted in the drug conviction...

¹Tenn. Code Ann. § 39-17-420(a) authorizes the creation of special funds which, in the case of counties and municipalities, may be used for drug enforcement, education programs and treatment programs and for non recurring law enforcement expenditures.

²The mandatory minimum fines are prescribed in Tenn. Code Ann. § 39-17-428(b).

³Most of the language of former subsections (c)(1)(A) through (c)(1)(I) was identical. The only difference was in the dollar amount which was allocated pursuant to Tenn. Code Ann. § 39-17-420.

Comparing the former version of Tenn. Code Ann. § 39-17-428(c) with the amended version set forth in Chapter 881 shows that, in cases involving single law enforcement agencies, the legislature intended to simplify the manner of allocating the proceeds from drug fines. It replaced the old system of allocating specific dollar amounts and replaced it with a percentage based formula.

In cases involving drug task forces, no such change was intended. As it relates to drug task forces, the former version of Tenn. Code Ann. § 39-17-428(c) remains the same. For example, Tenn. Code Ann. § 39-17-428(c)(1)(A) states, in pertinent part⁴:

[I]f a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more of counties and cities within the judicial district as directed by the court.

Chapter 881 did not modify the language governing the allocation of drug fines in cases involving drug task forces. The failure to change the language shows that the legislature intended to retain the same method for allocating fines in cases brought by drug task forces.

2. Under Tenn. Code Ann. § 39-17-428(c), the special fund administered by the drug task force receives an amount equal to the mandatory minimum fine imposed under Tenn. Code Ann. § 39-17-428(b). The balance of any such fine is allocated to one or more counties or cities located within the judicial district, as directed by the court.

As amended by Chapter 881, Tenn. Code Ann. § 39-17-428(c) states, in pertinent part:

if a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more counties and cities within the judicial district as directed by the court.

The words in a statute are to be construed according to their ordinary meaning. If possible, statutes should also be interpreted in such a way as to give all of the parts a consistent and reasonable meaning. *State v. Alford*, 970 S.W.2d 944 (Tenn. 1998). Statutes should not be construed in such a manner as to lead to an absurd result. *Fletcher v. State*, 951 S.W.2d 378 (Tenn. 1997).

The statutory language clearly describes the manner for allocating any amount above the mandatory minimum fine. Such amounts are to be paid to the general fund of one or more of the counties and cities in the judicial district as determined by the court.

⁴In cases involving drug task forces, the language of the former provisions, which were set forth in Tenn Code Ann. §§ 39-17-428(c)(1)(A) through (c)(1)(I), is identical in all of the subsections.

However, the statute is silent about the allocation of the amount equal to the mandatory minimum fine. There is nothing in the express language directing the allocation of those funds to the fund administered by the drug task force or any other fund.

When read in light of the entire subsection, in cases involving drug task forces, the amount equal to the mandatory minimum fine should be allocated pursuant to Tenn. Code Ann. § 39-17-420.⁵ Such a construction is consistent with the statutory scheme. In cases involving a single law enforcement agency, Tenn. Code Ann. § 39-17-428(c) allocates the proceeds of drug fines between the special fund established and maintained under Tenn. Code Ann. § 39-17-420 and the general fund of the governing body of the law enforcement agency which made the arrest. From this language and the provision of a special fund for drug task forces in Tenn. Code Ann. § 39-17-420(c), it can be fairly implied that the legislature intended for the first proceeds from drug fines in cases involving drug task forces to be allocated for the use of such task forces pursuant to Tenn. Code Ann. § 39-17-420.

Such a construction is also consistent with the purpose behind Tenn. Code Ann. §§ 39-17-420 and 39-17-428(c). As the text of both sections shows, one of the purposes behind these statutes is to use the assets from convicted drug criminals to fund drug enforcement, education and other programs identified in those statutes. Allocating an amount equal to the minimum fine to the fund administered by the drug task force would further drug enforcement⁶.

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⁵In cases involving drug task forces, such allocation is governed by Tenn. Code Ann. § 39-17-420(c) which states:

Except as provided in subsection (d) all fines and forfeitures of appearance bonds received from the violation of the provisions of this part and which are specifically set forth in this part, the proceeds of goods seized and forfeited under the provisions of § 53-11-451 and disposed of according to law that arise from the activities of a judicial district drug task force shall be paid to an expendable trust fund maintained by the county executive in a county designated by the district attorney general and shall be used exclusively in a drug enforcement or education program of the district as directed by the board of directors of the judicial district drug task force. All requests for disbursement from the expendable trust fund maintained by the county executive executive for confidential purposes shall be by written request signed by the task force director and the district attorney general.

⁶Tenn. Code Ann. § 39-17-420 places restrictions on the use of such funds by drug task forces. Tenn. Code Ann. § 39-17-420(c) states that drug task forces may only use such funds for drug enforcement or education programs. The fines and forfeitures derived from cases brought by single law enforcement agencies may be put to more uses. Tenn. Code Ann. § 39-17-420(a) states that such funds may be used for drug enforcement, education, treatment and for other nonrecurring law enforcement expenses.

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