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**Signature of Sponsor**

**AMEND Senate Bill No. 2357**

**House Bill No. 2389\***

By deleting everything following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-203-101, is amended by adding the following as subdivision (b)(1)(N):

(N) Section 11-1-101 relative to those fees charged by the commissioner other than ones related to parks;

SECTION 2. Tennessee Code Annotated, Section 68-203-103(h), is amended by deleting subdivisions (1) and (2) and substituting instead:

(1) Filing/processing fee for state water quality permit: five thousand dollars (\$5,000);

(2) Annual maintenance fee for NPDES permit or state water quality permit: fifteen thousand dollars (\$15,000);

SECTION 3. Tennessee Code Annotated, Section 68-203-104, is amended by deleting subdivision (a)(3) in its entirety and substituting instead the following:

(3) After July 1, 2012, authorities responsible for setting fees shall not increase fees in any year general state revenues appropriated to the program have decreased from the previous year.

SECTION 4. Tennessee Code Annotated, Section 68-203-104, is further amended by deleting subsection (d) in its entirety and substituting instead the following:

(d) For each division of the department that administers one or more of the statutes listed in §68-203-101(b), no promulgating authority shall establish a fee schedule that results in a ratio between state appropriations and environmental protection fees, exclusive of penalties and damages, in which the environmental protection fees constitute a higher percentage of the total funds expended by the division

than the following ratios, which represents an approximation of the time spent by the divisions in activity that protects the public and the environment generally to that spent addressing a particular entity such as in technical assistance, permitting, inspection or enforcement:

(1) For the divisions of air pollution control, radiological health, solid waste management, and water supply: the percentage of environmental protection fees, shall not constitute a higher percentage of the total of fees and appropriations than they did in the fiscal year 1994-1995;

(2) For the division of ground water protection: environmental protection fees, 71%, state appropriations, 29%; and

(3) For the division of water pollution control: environmental protection fees, 50%, state appropriations, 50%.

SECTION 5. Tennessee Code Annotated, Section 68-211-835, is amended by deleting subdivision (d)(2) and substituting instead:

(d)

(2) The operator of the municipal solid waste disposal facility or incinerator shall collect this surcharge and remit it to the state treasury, except that the operator shall be allowed a deduction of the surcharge due, reported, and paid to the department in the amount of one percent (1%) of the amount due on the report. No deduction from the fee shall be allowed if the report or payment of the surcharge is delinquent. Of the funds received from this surcharge, for a period of three years starting July 1, 2009, the state shall credit an amount not to exceed two million six hundred thousand dollars (\$2,600,000) to the general fund annually, if the annual appropriations act so provides, and the remainder shall be credited to the solid waste management fund. On July 1, 2012 and thereafter, all of the funds received from this surcharge shall be credited to the solid waste management fund.

SECTION 6. Tennessee Code Annotated, Section 68-211-1006, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) The fee established in this part shall be collected by the department of revenue and deposited to the used oil collection fund. Of the funds received from this fee, for a period of three years starting July 1, 2009, the state shall credit an amount not to exceed four hundred thousand dollars (\$400,000) to the general fund annually, if the annual appropriations act so provides, and the remainder shall be credited to the used oil collection fund. On July 1, 2012 and thereafter, all of the funds received from this fee shall be credited to the used oil collection fund.

SECTION 7. Tennessee Code Annotated, Section 68-212-104, is amended by adding the following language as a new definition and redesignating the remaining subsections accordingly:

“Hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that when discarded would be identified as hazardous waste under the rules promulgated pursuant to this part.

SECTION 8. Tennessee Code Annotated, Section 68-212-110, is amended by deleting the language in subsection (a) prior to the colon (:) and substituting instead:

(a) The board shall establish a schedule of fees for hazardous waste generators, hazardous waste transporters, operators of hazardous waste transfer facilities; applicants and holders of permits for the storage, reclamation, treatment, or disposal of hazardous waste; and for the generation, storage, transportation, reclamation or treatment of those hazardous secondary materials that, if discarded, would be identified as spent materials, listed by-products, or listed sludges. The board shall not establish fees for those hazardous secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance. To establish an incentive to minimize

risk to public health and the environment, the board shall consider the following factors in establishing the fees

SECTION 9. Tennessee Code Annotated, Section 68-215-110, is amended by deleting subdivision (h)(3)(A)(ii) and substituting instead:

(ii) Second, for a period of three years starting July 1, 2009, the state shall credit an amount not to exceed three million dollars (\$3,000,000) to the general fund annually, if the annual appropriations act so provides, and the remainder shall be credited to the petroleum underground storage tank fund. On July 1, 2012 and thereafter, all of the funds received from this fee shall be credited to the petroleum underground storage tank fund.

SECTION 10. Because of the need for revenue in the entire fiscal year starting July 1, 2009, due to current economic conditions, rules promulgated in the current fiscal year using the authority granted by section 3 or section 4 of this act shall be effective by July 1, 2009, or, if that date has already passed before this bill becomes law, then as close to that date as possible.

SECTION 11. Tennessee Code Annotated, Section 67-4-1025(d), is amended by deleting the period at the end of the sentence and substituting instead the following:

; provided, however, that in the fiscal years beginning July 1, 2009, and July 1, 2010, the amount of sixteen million three hundred thousand dollars (\$16,300,000) or a larger amount not exceeding twenty-one million (\$21,000,000) annually shall be allocated to the Tennessee agriculture enhancement program, such amount to be specified in the annual appropriations act.

SECTION 12. Tennessee Code Annotated, Section 56-32-124(a), is amended by deleting the words and figure "two percent (2%)" and substituting instead the words and figure "five and one-half percent (5.5%)".

SECTION 13. Tennessee Code Annotated, Section 11-7-103, is amended by adding the following language as a new subsection (h):

(h) The provisions of this subsection are contingent upon a four-million-dollar (\$4,000,000) appropriation being made to the trust fund in the 2009 general

appropriations act. Provisions of this section and of other law to the contrary notwithstanding, in the five (5) or fewer fiscal years beginning July 1, 2010, the commissioner of finance and administration annually shall transfer from the heritage conservation trust fund to the general fund an amount of \$937,500, plus annual interest earnings on that amount, plus any unexpended balance of four million dollars (\$4,000,000) remaining after certain commitments of the trust fund have been satisfied, plus other available sources, until the general fund has been reimbursed for a four million dollar (\$4,000,000) appropriation made in fiscal year 2008-2009. The four-million-dollar appropriation has been provided to allow the state to fulfill commitments made before November 2008, while a \$9,375,000 lease payment for timber rights is earned over a ten-year period. For purposes of this subsection, the term "other available sources" shall not include gifts, contributions, bequests, donations and grants, if such funds are restricted for specific acquisitions or purposes.

SECTION 14. Tennessee Code Annotated, Section 4-3-1016, is amended in subsection (d) by deleting the word "and" after the date "2008"; by inserting the language " and June 30, 2010," immediately after the date "2009,,"; by deleting items 69, 70, and 79 from subsection (d); and by renumbering subsequent items accordingly.

SECTION 15. Tennessee Code Annotated, Section 4-3-1016, is amended by adding the following language as new subsections to immediately follow the existing subsection (d) and by re-designating the existing subsection accordingly:

(e) In the fiscal years ending June 30, 2009, and June 30, 2010, in addition to the transfers authorized in subsection (d), transfers are authorized from the following additional funds, reserve accounts, and programs:

(1) Department of correction, confiscated cash fund, created or referenced in title 4, chapter 6, part 1.

(2) Department of economic and community development, biofuels manufacturers incentive fund, created or referenced in title 67, chapter 3, part 4.

(3) Department of health, diabetes prevention and health improvement account, created or referenced in title 4, chapter 40, part 4.

(4) Department of environment and conservation, natural resources trust fund, created or referenced in title 11, chapter 14, part 3.

(f) In the fiscal year ending June 30, 2009, transfers shall not be made from the following, funds, reserve accounts, or programs:

(1) Department of transportation funds, reserve accounts and programs in the highway fund or other funds created or referenced in titles 54, 55, 57, 65, and 67, except as otherwise provided by law.

(2) Department of commerce and insurance, emergency communications funds, created or referenced in title 7, chapter 86, part 1;

(3) Department of commerce and insurance, state board of accountancy fund, created or referenced in title 62, chapter 1, part 1;

(4) Department of commerce and insurance, division of regulatory boards fund, created or referenced in title 56, chapter 1, part 3;

(5) Department of health, health-related boards fund, created or referenced in title 63, chapter 1, part 1.

SECTION 16. Tennessee Code Annotated, Section 40-28-201(a)(4), is amended by deleting the last sentence of the subsection and substituting instead the following: "The department of correction shall deposit the contribution as departmental revenue of the institution."

SECTION 17. Tennessee Code Annotated, Section 40-28-201(d), is amended by inserting after the word "rehabilitation" the words "by the board of probation and parole".

SECTION 18. Tennessee Code Annotated, Section 40-28-203, is amended in subsection (a) by deleting the words "are established separate department of correction and" and substituting instead the words "is established a" and by deleting the letter "s" from the word "funds"; by deleting from subsection (b) the language "or the department of correction, as appropriate,"; by deleting from subsection (b) the words "in the funds" and substituting instead

“in the fund”; by deleting from subsection (c), in the first sentence, the letter “s” from the word “funds”; by deleting from subsection (c), in the last sentence, the language “work release, prerelease, or other”; by deleting from subsection (c), in the last sentence, the words “parole, probation, or sentence” and inserting instead the words “parole or probation”; by deleting from subsections (d)(1) and (d)(2) the words “rehabilitation funds” and substituting instead “rehabilitation fund” in both instances.

SECTION 19. Tennessee Code Annotated, Section 4-3-1016, is amended by adding the following as a new appropriately designated subsection:

( ) Other provisions of law to the contrary notwithstanding, in the year ending June 30, 2009, reserves of the Tennessee regulatory authority, including the deferred revenue account created or referenced in title 65, chapter 1, part 1; the assistive telecommunication device distribution program reserve created or referenced in title 65, chapter 21, part 1; and any other reserve fund maintained by the authority are available to the authority for its operational costs, and such reserves may be transferred between operational accounts of the authority.

SECTION 20. Tennessee Code Annotated, Section 4-7-209, is amended by deleting the language in its entirety and substituting instead the following:

Implementation of salary increases pursuant to this part based on step schedules shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to this part based on step schedules shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 21. Tennessee Code Annotated, Section 8-7-201, is amended by deleting the language in subsection (g) in its entirety and substituting instead the following:

Implementation of salary increases pursuant to the pay schedules prescribed in this section shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal

years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to pay schedules prescribed in this section shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 22. Tennessee Code Annotated, Section 8-7-226, is amended by deleting the language in subsection (b) in its entirety and substituting instead the following:

Implementation of salary increases pursuant to the pay schedule prescribed in subsection (a) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subsection (a) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 23. Tennessee Code Annotated, Section 8-7-230, is amended by deleting the language in subsection (b) in its entirety and substituting instead the following:

Implementation of salary increases pursuant to the pay schedule prescribed in subsection (a) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subsection (a) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 24. Tennessee Code Annotated, Section 8-14-207, is amended by deleting the language in subsection (b)(4) in its entirety and substituting instead the following:

Implementation of salary increases pursuant to the pay schedule prescribed in subsection (b)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years,

salary increases pursuant to the pay schedule prescribed in subsection (b)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 25. Tennessee Code Annotated, Section 8-14-207, is amended by deleting the language in subsection (c)(5) in its entirety and substituting instead the following new language:

Implementation of salary increases pursuant to the pay schedule prescribed in subsection (c)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subsection (c)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 26. Tennessee Code Annotated, Section 8-14-207, is amended by deleting subsection (d) in its entirety.

SECTION 27. Tennessee Code Annotated, Section 8-23-206(d)(2), is amended by inserting after the words "Acts 2003, Ch. 355" the language ", and this act".

SECTION 28. Tennessee Code Annotated, Section 40-30-209, is amended by adding the following language as a new subsection (d):

(d) Notwithstanding any provisions of law to the contrary, any limitations on compensation and step increases that apply to district public defenders and assistant public defenders for the period of time beginning from June 16, 2003, to June 30, 2004, and the effective date of this act to June 30, 2010, shall also apply to post-conviction defenders and assistant post-conviction defenders. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in this section shall not include time of service between July 1, 2003, and June 30, 2004, and between July 1, 2009, and June 30, 2010.

SECTION 29. Tennessee Code Annotated, Section 70-1-309, is amended by deleting the last two sentences of the section and substituting instead the following language:

Implementation of salary increases pursuant to such salary administration plan shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the salary administration plan shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

SECTION 30. Tennessee Code Annotated, Section 37-1-102(b)(4)(B), is amended by deleting the subdivision in its entirety.

SECTION 31. Tennessee Code Annotated, Section 37-2-205, is amended by adding the following language as a new subsection (f):

(f) Notwithstanding any law to the contrary, the department of children's services shall allocate resources for children in state custody based on a county's child population and the average state commitment rate per thousand children. The department shall pay for 200% of the state average commitment rate for a county's child population. Any commitment made beyond that number shall be the responsibility of the county government. The commissioner of the department of children's services shall be authorized to promulgate rules and regulations to effectuate the provisions of this subsection.

SECTION 32. Tennessee Code Annotated, Section 33-1-101, is amended by adding the following language as a new subsection (3) and by redesignating existing subsection (3) and subsequent subsections accordingly:

(3) "Available suitable accommodations" or "suitable available accommodations" mean, for the purposes of this title, that a state owned or operated hospital or treatment resource has the capacity, as determined by the commissioner, and the medical capability, equipment and staffing to provide an appropriate level of care, treatment and physical security to an individual in an unoccupied and unassigned bed.

SECTION 33. Tennessee Code Annotated, Section 33-1-101, is amended by adding the following language as a new subsection (16) and by redesignating existing subsection (16) and subsequent subsections accordingly:

(16) "Medical capability" means, for the purposes of this title, that a state owned or operated hospital or treatment resource has the ability to treat an individual's medical needs onsite or that the individual's medical needs do not exceed the onsite capability of the state owned or operated hospital or treatment resource to treat.

SECTION 34. Tennessee Code Annotated, Section 33-2-1109(a)(2), is amended by deleting the existing language in its entirety and substituting instead the following:

A person subject to evaluation, diagnosis or treatment under chapter 5, part 5 of this title, or chapter 7, part 3 and charged with a felony, or chapter 7, part 4 of this title;

SECTION 35. Tennessee Code Annotated, Section 33-3-301(c)(2), is amended by deleting the existing language in its entirety and substituting instead the following:

(2) If the commissioner approves the emergency transfer, the commissioner shall notify the chief officers of the transferring and receiving facilities. The chief officer of the transferring facility shall then have the person transferred immediately. A bed shall remain open at the transferring facility for seventy-two (72) hours after the transfer for the readmission of the person.

SECTION 36. Tennessee Code Annotated, Title 33, Chapter 6, Part 1, is amended by adding the following language as a new section 33-6-108:

33-6-108. Admissions to a state-owned or operated hospital or treatment resource.

Notwithstanding any other provisions of the law to the contrary, all admissions or transfers to a state owned or operated hospital or treatment resource shall be subject to available suitable accommodations as herein defined. No admission to a state owned or operated hospital or treatment resource shall occur until the department has designated the state owned or operated facility as having available suitable accommodations.

SECTION 37. Tennessee Code Annotated, Section 33-6-404(3)(B)(iii), is amended by deleting the existing language in its entirety and substituting instead the following:

(iii) the physician, psychologist, or designated professional shall assess the person's clinical needs, the person's need for physical restraint or vehicle security and the mode of transportation to the hospital in consultation with the mandatory pre-screening agent, other mental health professional familiar with the person or a knowledgeable family member, and, if admission is sought at a state owned or operated hospital or treatment resource, verify that the state owned or operated hospital or treatment resource has available suitable accommodations.

SECTION 38. Tennessee Code Annotated, Section 33-6-406(a), is amended by deleting the subsection in its entirety and by substituting the following language:

If the person certified for admission under § 33-6-404 is not already at the facility, hospital or treatment resource at which the person is proposed to be admitted, the physician, psychologist, or designated professional who completed the certificate of need under § 33-6-404 shall give the sheriff or the transportation agent designated under chapter 6, part 9 of this title, the original of the certificate and turn the person over to the custody of the sheriff or the transportation agent. If admission is sought to a state owned or operated hospital or treatment resource, prior to transportation the sheriff or designated transportation agent shall verify that the state owned or operated hospital or treatment resource has available suitable accommodations. Upon verification by the sheriff or transportation agent the person may be transported to a stated owned or operated hospital or treatment resource with available suitable accommodations for proceedings under § 33-6-407. Failure to verify available suitable accommodations at the state owned or operated hospital or treatment resource at which the person is to be admitted prior to transportation of the person shall result in all costs attendant to the person's admission and treatment being assessed to the transporting county. Transportation to a state owned or operated hospital or treatment resource may not commence without a certificate of need executed by a mandatory prescreening agent, or by a physician or psychologist as authorized by § 33-6-105.

SECTION 39. Tennessee Code Annotated, Section 33-6-406(b)(2), is amended by deleting the existing language in its entirety and substituting instead the following:

The sheriff or transportation agent shall notify the hospital or treatment resource of the anticipated time of arrival and is required to remain at the hospital or treatment resource long enough for the person to be evaluated for admission under § 33-6-407. The person will remain in the custody of the sheriff or transportation agent until admitted under § 33-6-407.

SECTION 40. Tennessee Code Annotated, Section 33-6-406(b)(3), is amended by deleting the subdivision in its entirety.

SECTION 41. Tennessee Code Annotated, Section 33-6-406(b)(4), is amended by deleting the subdivision in its entirety.

SECTION 42. Tennessee Code Annotated, Section 33-6-407(a), is amended by deleting the existing language in its entirety and substituting instead the following:

A hospital or treatment resource that receives a person transported under § 33-6-406 shall have a licensed physician examine the person to determine whether the person is subject to admission under § 33-6-403.

SECTION 43. Tennessee Code Annotated, Section 33-6-505, is amended by deleting the existing language in its entirety and substituting instead the following:

If the court commits a person under this section, the person comes into the commissioner's custody only if the state owned or operated facility or treatment resource has available suitable accommodations. Prior to transporting a person for such commitment, the sheriff or other transportation agent shall determine that the receiving state owned or operated facility or treatment resource has available suitable accommodations.

SECTION 44. Tennessee Code Annotated, Title 33, Chapter 7, Part 1, shall be amended by adding the following language as a new Section 33-7-104:

33-7-104. Admissions to a state owned or operated facility.

Notwithstanding any other provisions of the law to the contrary, all admissions or transfers to a state owned or operated hospital or treatment resource under this chapter shall be subject to available suitable accommodations as herein defined. No admission to a state owned or operated hospital or treatment resource under this chapter shall occur until the commissioner has designated the state owned or operated facility as having available suitable accommodations. Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent shall determine that the receiving facility has available suitable accommodations.

SECTION 45. Tennessee Code Annotated, Section 33-7-301(a), is amended by adding the following language as a new subdivision (5):

(5) Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent shall determine that the receiving department facility has available suitable accommodations.

SECTION 46. Tennessee Code Annotated, Title 33, Chapter 7, Part 3, shall be amended by adding the following language as a new Section 33-7-304:

33-7-304. Cost of Evaluation and Treatment.

(a) The cost of evaluation and treatment under Chapter 7, Part 3 of this title, if the defendant is charged with a misdemeanor, will be a charge upon the funds of the county. If the court finds the defendant financially able to pay all or part of the costs and expenses for the evaluation and treatment, the court may order the same. Payment shall be made to the clerk of the general sessions court for remittance to the person, agency or facility to whom compensation is due, or if the costs and expenses have been paid by the county, to the appropriate office of the county.

(b) Costs of the care or treatment of any defendant ordered by the court and who is charged with a misdemeanor shall be paid by the state only when specifically authorized by law.

SECTION 47. Tennessee Code Annotated, Section 33-7-301(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following language:

During the post-conviction stage of a criminal proceeding, if it is believed that a defendant is incompetent to assist counsel in preparation for, or otherwise participate in, the post-conviction proceeding, the court may, upon its own motion, order that the defendant be evaluated on either an outpatient or inpatient basis, as may be appropriate. If the defendant is indigent, the amount and payment of the costs for the evaluation shall be determined and paid for by the administrative office of the courts. If the defendant is not indigent, the cost of the evaluation shall be charged as court costs. If the evaluation cannot be done on an outpatient basis and if it is necessary to hospitalize the defendant in a department facility, hospitalization shall not be for more than thirty (30) days and shall be subject to available suitable accommodations. Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent shall determine that the receiving department facility has available suitable accommodations. Any costs incurred by the administrative office of the courts shall be absorbed within the current appropriation for the indigent defense fund.

SECTION 48. Tennessee Code Annotated, Section 33-7-301(b)(5), is amended by deleting the existing language in its entirety and substituting the following:

If the court enters an order of judicial hospitalization, the defendant shall be transferred to the custody of the commissioner, and if the court finds in addition that the defendant is substantially likely to injure the defendant or others if the defendant is not treated in a forensic services unit and that treatment in the unit is in the defendant's best interests, the defendant shall be transferred to the custody of the commissioner at a forensic services unit designated by the commissioner. If the court commits a person under this subsection (b), the person comes into the commissioner's custody only if the forensic services unit has available suitable accommodations. Prior to transporting a defendant for such commitment, the sheriff or other transportation agent shall determine that the receiving facility has available suitable accommodations.

SECTION 49. Tennessee Code Annotated, Section 33-7-303(a), is amended by deleting the existing language in its entirety and substituting instead the following:

When a person charged with a criminal offense is acquitted of the charge on a verdict of not guilty by reason of insanity at the time of commission of the offense, the criminal court shall order the person to be diagnosed and evaluated on an outpatient basis. The evaluation shall be performed by the community mental health agency or licensed private practitioner designated by the commissioner to serve the court.

SECTION 50. Tennessee Code Annotated, Section 33-7-303(b)(1) and (2) are amended by deleting the existing language in its entirety and substituting instead the following:

(b)

(1) Following diagnosis and evaluation, if certification is provided that the person is committable under chapter 6, part 5 of this title, the district attorney general shall file a complaint in criminal court for judicial commitment under Chapter 6, part 5 of this title. If certification is not provided that the person is committable under Chapter 6, Part 5 of this title, the district attorney general shall file a complaint in the criminal court for an order requiring the person to participate in outpatient treatment under this subsection.

SECTION 51. Tennessee Code Annotated, Section 33-7-303(c)(3), is amended by deleting the existing language it in its entirety and substituting instead the following:

If the court commits a person under this subsection (c), the person comes into the commissioner's custody only if the commissioner determines that a facility has available suitable accommodations. Prior to transporting a defendant for commitment in a department facility, the sheriff or other transportation agent shall determine that the receiving facility has available suitable accommodations.

SECTION 52. Tennessee Code Annotated, Section 33-7-303(f), is amended by deleting the existing language in its entirety and substituting instead the following:

The cost of treatment incurred as a result of the outpatient treatment and evaluation required in subsection (b)(3) shall be taxed as court costs.

SECTION 53. Tennessee Code Annotated, Section 49-4-202, is amended by deleting the language in subsection (h) in its entirety and substituting instead the following language:

(h) The executive director of the Tennessee higher education commission, appointed pursuant to 49-7-205, shall serve as the executive director of the Tennessee student assistance corporation and shall have the responsibility, including employment of other personnel, to carry out the purposes of parts 2-7 of this chapter.

SECTION 54. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 55. Section 12 of this act shall take effect on July 1, 2009, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.