

SENATE BILL 2884

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 37; Title 38; Title 39; Title 40 and Title 41,
relative to appeals.

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

SECTION 1. Tennessee Code Annotated, Section 40-30-114(c), is amended by deleting the subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 40-30-114(a), is amended by deleting the subsection and substituting:

(a) The district attorney general must be reimbursed for any expenses, including travel, incurred in connection with the preparation and trial of any proceeding under this part. This expense must be paid by the state and is not included in the expense allowance now received by the various district attorneys general.

SECTION 3. Tennessee Code Annotated, Section 40-30-108(a), is amended by deleting the subsection and substituting:

(a) The district attorney general shall represent the state and file an answer or other responsive pleading within thirty (30) days, unless extended for good cause. Good cause will not be met by a routine statement that the press of other business prevents a response within the thirty-day period. Failure by the state to timely respond does not entitle the petitioner to relief under the Post-Conviction Procedure Act.

SECTION 4. Tennessee Code Annotated, Section 39-13-203(g)(1), is amended by deleting the subdivision and substituting:

(1) A defendant who has been sentenced to the death penalty prior to May 11, 2021, and whose conviction is final on direct review may petition the trial court for a

determination of whether the defendant is intellectually disabled. The motion must set forth a colorable claim that the defendant is ineligible for the death penalty due to intellectual disability. Either party may appeal the trial court's decision in accordance with Rule 3 of the Tennessee Rules of Appellate Procedure.

SECTION 5. Tennessee Code Annotated, Section 40-26-105(a), is amended by deleting the subsection and substituting:

(a) There is made available to convicted defendants in criminal cases a proceeding in the nature of a writ of error coram nobis, to be governed by the same rules and procedures applicable to the writ of error coram nobis in civil cases, except insofar as inconsistent herewith. Notice of the suing out of the writ is served on the district attorney general. A judge does not have authority to order the writ to operate as a supersedeas. The court has authority to order the person having custody of the petitioner to produce the petitioner in court for the hearing of the proceeding.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it.