HOUSE BILL 907

By Garrett

AN ACT to amend Tennessee Code Annotated, Title 24, Chapter 1, Part 2 and Title 40, Chapter 17, Part 1, relative to law enforcement investigatory privilege.

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

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 1, Part 2, is amended by adding the following as a new section:

- (a) There is created a law enforcement investigatory privilege.
- (b) The law enforcement investigatory privilege protects all information governed by Rule 16 of the Rules of Criminal Procedure in an open criminal investigation or prosecution. A criminal investigation or prosecution is deemed closed when:
 - (1) The district attorney general chooses not to seek charges against a suspect and closes the investigation;
 - (2) A criminal defendant is acquitted; or
 - (3) After conviction, the time to file a petition under § 40-30-102 has expired or the petition filed under § 40-30-102 is resolved by the trial court.
- (c) A subpoena must not be issued or granted in a civil or criminal proceeding for information protected by the law enforcement investigatory privilege in an open criminal investigation or prosecution. The district attorney general may file a motion to quash or modify a subpoena in any matter where the state has an investigative or prosecutorial interest in information or materials which are protected by the law enforcement investigatory privilege and sought by a subpoena.
- (d) Subsections (a) and (b) do not infringe upon the constitutional rights of a criminal defendant.

(e) Subsection (a) or (b) does not alter or amend the procedure for subpoena by law enforcement as detailed in § 40-17-123.

SECTION 2. Tennessee Code Annotated, Section 40-17-122, is amended by deleting the section and substituting:

Except as provided in Section 1, Rule 17 of the Rules of Criminal Procedure governs when a clerk or other authorized officer of the court is required to issue a subpoena in a criminal case in criminal court and the consequences of a person's refusal to appear, testify, or produce evidence when subpoenaed is governed pursuant to that rule. If any local rule of court conflicts with Rule 17, then Rule 17 prevails and the clerk or other authorized officer of the court shall issue subpoenas and the judge shall punish the refusal to respond to subpoenas in accordance with the rule.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

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