



Legislative Bill Tracking List 2017

These are the bills that FACT and FACT's legislative arm, Family Action of Tennessee, are tracking through the Tennessee General Assembly this year that relate to marriage, family, life, religious liberty, and more. Bills are organized by categories that are listed alphabetically. Bill sponsors for both the Senate bill and House bill are listed in parentheses.

Constitutional Government

Senate Bill 449 (Bell) / House Bill 566 (Howell)

BILL SUMMARY

Requires all boards and commissions that currently implement an ethics code developed by a private professional or business association to submit any changes to those codes by those private associations for approval by the House and Senate Committee on Government Operations.

BILL ANALYSIS

This bill addresses a loophole in Tennessee law. Ethics codes and regulations on a profession can have the effect of law if they are violated. Right now, some state-created governing boards permanently adopt, *in toto*, ethics codes developed by private organizations, meaning that if the private organization changes its code, then state law automatically changes in Tennessee law even though the change in law was never voted on or approved by Tennessee voters or their elected representatives.

This bill restores the democratic principle that the power to create state law cannot be delegated to or exercised by outside, private organizations unaccountable to the people or their elected representatives.

Senate Bill 436 (Watson) / House Bill 558 (Carter) – Legislator Standing Bill

BILL SUMMARY

Allows the Legislature, either by majority of both chambers or by approval by both Speakers, to do the following:

- Initiate lawsuits against local governments to challenge local ordinances that violate state law or compel compliance with state law
- Initiate lawsuits that challenge the constitutionality or application of federal laws
- Intervene in lawsuits in which the constitutionality or interpretation of a state or federal law is at issue.

Any action taken under this bill will be indemnified by the state.

BILL ANALYSIS

Currently, the Legislature has no voice in the courtroom if the attorney general:

- Refuses to take legal action to enforce a state law or challenge a federal law or,
- In a pending action in which private parties are seeking to have current law held unconstitutional or reinterpreted, takes a position inconsistent with or contrary to the will and intent of the Legislature.

This bill will help the Legislature defend and enforce its laws and protect itself from unconstitutional mandates under federal law or require the federal government to comply with its mandates.

Senate Bill 1240 (Norris) / House Bill 690 (Goins) – Solicitor General Bill

BILL SUMMARY

Creates the office of solicitor general to be appointed by the Legislature and transfers all the current duties of the attorney general (except the reporting of Supreme Court cases) to the office of solicitor general. The solicitor general can be removed by a vote of 2/3 of the members of the General Assembly.

BILL ANALYSIS

In Tennessee, the attorney general is not elected. He is appointed by the Tennessee Supreme Court, whose members are also unelected. As a result, the attorney general is essentially unaccountable to the people or their representatives.

This bill provides accountability within the state's legal department for the defense of the Constitution, separation of powers, and federalism by allowing the policy making body, the General Assembly, to appoint and remove the solicitor general on 2/3 vote.

EDUCATION

Senate Bill 4 (Gresham) / House Bill 357 (Dunn) – Prohibits Social-Emotional Learning Standards

BILL SUMMARY

Prohibits the state board of education from adopting or providing standards or competencies for social and emotional learning (SEL).

BILL ANALYSIS

SEL is a process by which students are taught to apply their knowledge in social, emotional, and relational contexts.

Last summer, Tennessee joined a national pilot program (CASEL) implementing SEL standards but was forced to withdraw following concerns from citizens and legislators.

This bill would prohibit the state from introducing or requiring SEL. It does not address whether local school districts can choose to implement SEL.

SB 582 (Gresham) / HB 1039 (Smith) – Requires School Board Elections to Be Partisan

BILL SUMMARY

Requires school board elections to be partisan races.

BILL ANALYSIS

Important bill for transparency and voter education. Since Tennessee is mostly Republican, many Democrats have focused on non-partisan elections (school board, municipal office) to assert influence on the local level. They are able to be elected because it is difficult to ascertain the full extent of their beliefs through campaign mailers, etc. This bill will require school board candidates to run as partisan, party candidate.

Senate Bill 771 (Beavers) / House Bill 888 (Pody) – Student Privacy Bill (Bathrooms)

BILL SUMMARY

Requires students in public schools and universities to use bathroom and locker room facilities of the sex listed on their birth certificate.

BILL ANALYSIS

This bill is similar to a bill pursued last year that was opposed by the Administration. The bill seeks to protect the constitutionally recognized right of privacy students have by not forcing them to use facilities with members of the opposite biological sex. However, the U.S. Supreme Court is set to hear argument over this very issue in March.

FAMILY

Senate Bill 30 (Bowling) / House Bill 33 (Ragan) – Definitions Bill

BILL SUMMARY

Clarifies that the words “husband,” “wife,” “father,” and “mother,” when used in a statute, are to be given their ordinary meaning based on the biological distinctions between men and women.

BILL ANALYSIS

Provides guidance for courts as they review statutory language and consider legislative intent when dealing with parties asking them to (A) redefine “husband” or “wife” or substitute the gender-neutral term “spouse” or (B) redefine “father” or “mother” in non-biological ways or substitute for those words a new, non-biological term “parent” – effectively removing biology and procreation as inherent and integral to the family and family law for legal purposes.

Senate Bill 1085 (Stevens) / House Bill 1111 (Farmer) – Definitions Bill

BILL SUMMARY

Requires that undefined words in the Tennessee Code be given their natural and ordinary meaning, except when a contrary intention is clearly manifest.

BILL ANALYSIS

A broad definitions bill that could have similar effect as SB 30 but would apply to any number of words that private litigants might want courts to redefine.

Senate Joint Resolution 35 (Beavers) – Pornography Resolution

BILL SUMMARY

Resolution declaring pornography a public health crisis.

BILL ANALYSIS

As a matter of policy, it is good to identify factors that contribute to the breakdown of the family and the need to address it on a community and societal level.

Senate Bill 1153 (Hensley) / House Bill 1406 (Weaver) – Insemination Statute Repeal

BILL SUMMARY

Repeals statute that deems a child born to a married woman as a result of artificial insemination, with the consent of the married woman’s husband, to be the legitimate child of the husband and wife.

BILL ANALYSIS

This statute is unnecessary, because the Tennessee Code already provides for a presumption of paternity when a child is born to a married husband and wife. In addition, the state’s attorney general has said that the law is unconstitutional after *Obergefell v. Hodges*. This statute is being used by private litigants as a legal basis for arguing that it is now unconstitutional for the state to define motherhood and fatherhood in relation to biological considerations and procreation.

Senate Bill 752 (Beavers) / House Bill 892 (Pody) – Natural Marriage Defense Act

BILL SUMMARY

Declares that Tennessee will only recognize and give effect to marriages between one man and one woman and will not recognize any court decision that purports to strike down natural marriage.

BILL ANALYSIS

As with a similar bill filed last year, there are several potential legal issues with this bill as written, because of its requirement that the state ignore or “nullify” any court decision, including the U.S. Supreme Court, that issues a ruling contrary to Tennessee state policy on marriage. It could result in all local officials having to defend at local expense lawsuits by same-sex couples for civil rights violations and reimburse the litigants’ legal fees if they lose the lawsuits.

The bill is an improvement on last year’s bill in that would make the state liable to civil rights lawsuits for the non-issuance of same-sex marriage licenses instead of county clerks.

Senate Bill 1142 (Kyle) / House Bill 721 (Powell) – Mandates Contraception Coverage for Insurance Policies

BILL SUMMARY

Requires that every group health insurance policy, to the extent not preempted by federal law, have coverage for ALL contraceptive drugs and devices approved by the FDA.

BILL ANALYSIS

This is very similar to the Obamacare mandate on contraception, which resulted in a lawsuit from the Little Sisters of the Poor. The bill does offer a mild religious liberty exception but requires an organization to file for a religious exemption (subject to approval) and offer written notice to prospective enrollees.

LIFE

Senate Bill 766 (Beavers) / House Bill 101 (Weaver) – 20-Week Abortion Ban

BILL SUMMARY

Prohibits abortion after 20 weeks with exceptions for the life and health of the mother.

BILL ANALYSIS

Sixteen states currently ban abortion after 20 weeks. It is questionable whether this would survive a constitutional challenge *under existing U.S. Supreme Court precedent*, as states can ban abortion after “viability” which, legally, is considered to occur at 24 weeks.

Passage of the bill could result in a lawsuit that would reach the U.S. Supreme Court and provide a context in which *Roe v. Wade* could be overturned.

Senate Bill 244 (Beavers) / House Bill B 108 (Van Huss) – Fetal Heartbeat Bill

BILL SUMMARY

Bans abortion if a fetal heartbeat is detected.

BILL ANALYSIS

It is questionable whether this would survive a constitutional challenge under existing Supreme Court precedent, as states can ban abortion after “viability” which, legally, is considered to occur at 24 weeks.

Passage of the bill could result in a lawsuit that would reach the U.S. Supreme Court and provide a context in which *Roe v. Wade* could be overturned.

Senate Bill 743 (Beavers) / House Bill 895 (Pody) – Personhood at Fertilization

BILL SUMMARY

Declares that life begins at conception and all the rights of personhood attach at that point.

BILL ANALYSIS

This bill would not survive a constitutional challenge under existing Supreme Court precedent, as states can ban abortion after “viability” which, legally, is considered to occur at 24 weeks.

Senate Bill 1180 (Hensley) / House Bill 1189 (M. Hill) – Prohibits Abortions After Viability

BILL SUMMARY

Prohibits abortion of a viable fetus and requires testing to determine viability if a woman is at least 20 weeks pregnant.

BILL ANALYSIS

Similar to the 20-week ban (see SB 766 above). Requiring a determination of viability is an attempt to improve the odds that the law would not be held unconstitutional under current U.S. Supreme Court precedent.

Senate Bill 1378 (Tate) / House Bill 1394 (Wirgau) – Assisted Suicide Bill

BILL SUMMARY

Allows for an adult suffering from a terminal disease to make a written request for life-ending medication.

BILL ANALYSIS

Raises a whole host of spiritual, legal, and ethical issues. If passed, this bill could have enormous impact as to Tennessee's policy (as a state) on the intrinsic value of life.

RELIGIOUS LIBERTY

Senate Bill 127 (Green) / House Bill 54 (Zachary) – Business Protection Act

BILL SUMMARY

Prohibits discriminatory action by state and local government officials against businesses on the basis of the business' internal personnel policies, provided they are in compliance with state and federal law.

BILL ANALYSIS

It prohibits a local government or a "rogue" state or local official from conditioning contracts or bids or other business with private entities on whether they hold specific internal policies beyond what state law requires.

Senate Bill 403 (Gresham) / House Bill 609 (Gant) – Political Involvement of Churches

BILL SUMMARY

Exempts churches and religious organizations from the requirements applicable to Political Action Committees (PACs) when spending funds in favor or opposition to ballot measures related to morality, such as alcohol, drugs, abortion, marriage, or gambling.

BILL ANALYSIS

Important bill to preserve the ability of a church to inform its community about issues related to biblical teaching without having to worry about being fined for violation of the state's campaign finance laws.

MISCELLANEOUS

Senate Bill 385 (Massey) / House Bill 694 (Williams) – Marijuana: Excluding Cannabidiol From Definition of Marijuana

BILL SUMMARY

Excludes cannabidiol products approved as prescription medication by the U.S. Food and Drug Administration (FDA) from the statutory definition of marijuana.

BILL ANALYSIS

Cannabidiol, by definition, is an extract from the cannabis plant that does *not* contain THC, the property in cannabis that causes a "high." Typically, it is dispensed in an oil form and can be used to help treat seizures and other medical conditions.

Senate Bill 346 (Niceley) / House Bill 814 (Lovell) – Horse Racing: Establishes Horse Racing Commission

BILL SUMMARY

Establishes the Tennessee Horse Racing Commission to regulate horse racing and wagering in Tennessee.

BILL ANALYSIS

This bill is the final step toward full legalization of horse racing and gambling on those races in Tennessee.