

HOUSE BILL 2362

By Matlock

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 18, Part 1, relative to participants in criminal trials.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 18, Part 1, is amended by adding the following as a new section:

40-18-119

(a) As used in this section, “drug test” or “test” means any chemical, biological or physical instrumental analysis administered by a laboratory authorized to do so pursuant to title 50, chapter 9, for the purpose of determining the presence or absence of a drug, synthetic drug, controlled substance analogue or its metabolites pursuant to regulations governing drug testing adopted by the United States department of transportation or other recognized authority approved by rule by the commissioner of labor and workforce development.

(b) At any time after jeopardy has attached in a criminal trial, either the state or the defense is entitled to request in writing that the trial judge submit to a drug test. All drug testing shall be conducted in accordance with the drug-free workplace provisions of title 50, chapter 9.

(c)

(1) When a request for a drug test is made, the test shall occur within three (3) days of the date of the request and the trial shall be continued until the testing and results are complete.

(2) If the trial judge submits to a drug test, and the results are negative, the trial shall resume. No mention shall be made of the reason for the continuance to the jury, and subsection (d) shall apply.

(3) If the trial judge submits to a test and the results are positive for an illegal controlled substance, an imitation controlled substance or a controlled substance analogue, subdivision (c)(4) shall apply.

(4) If the trial judge submits to a requested test and the results are positive for a drug which can lawfully be prescribed, the judge has a prescription for such drug and the amounts detected are consistent with the prescribed amount and dosage of that drug, the trial shall resume. No mention shall be made of the reason for the continuance to the jury, and subsection (d) shall apply.

(5) If the trial judge refuses to submit to a requested drug test or the judge tests positive for an illegal drug synthetic drug or controlled substance analogue, a mistrial shall be declared, the judge shall be deemed disabled for purposes of § 17-2-116, and the supreme court shall assign a judge pursuant to § 17-2-110.

(d) If neither party requests that the judge be drug tested, or the judge is drug tested and subdivision (c)(1) or (c)(3) are applicable, neither party may assert on appeal that the judge was impaired by reason of drugs or under the influence of drugs during the course of the trial.

SECTION 2. This act shall take effect September 1, 2014, the public welfare requiring it, and shall apply to all criminal trials in which jeopardy has attached on or after such date.