

Tennessee Blazes the Trail to Truth and Reconciliation

via Chapter 966 Public Acts of 2018



by Jim Emison

Chapter 966 Tennessee Public Acts of 2018¹, signed into law May 15, 2018, is the first of its kind in the nation. The statute mandates a statewide survey of civil rights crimes, solved and unsolved, and establishes a statewide program of restorative justice and reconciliation. Chapter 966 amends TCA 3-19-101 and 102 and establishes in the General Assembly's Office of Minority Affairs, the Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center (Center). Yolanda Arnold, Director of Minority Affairs, is the state executive responsible for implementation of the statute's multiple mandates but Chapter 966 provides no additional funding for the Center, and requires Director Arnold to seek funding in the form of publicly and privately available grants, and to use volunteer manpower, specifically Tennesseans for Historical Justice, to:

1. Perform a statewide survey of civil rights crimes solved and unsolved;
2. Refer civil rights crimes on which the statute of limitations has not run to the state or federal prosecutor having jurisdiction; and,
3. Initiate and participate in restorative justice and racial reconciliation events "on behalf of the State of Tennessee."

No other state has a law like Chapter 966. Tennessee is the first, and it is fitting that Tennessee, whose soil is stained with the blood of Dr. King in Memphis and Elbert Williams² in Brownsville, to mention only two, leads the way. We Tennesseans have an opportunity to create a model for the nation. Properly executed, Tennessee's law will produce a compelling and accurate history of civil rights crimes, lead to prosecutions of such crimes not barred by the statute of limitations and commence a robust and effective program of restorative justice and reconciliation.

Chapter 966 was drafted by the Joint Special Legislative Committee, created in 2017 by HB 1306, that studied the investigation of civil rights crimes in Tennessee and reported to the General Assembly on January 15, 2018, its recommendation, "...concerning the desirability of a statutorily established commission or other appropriate means to conduct investigation and prosecution of these heinous civil rights crimes..."

Before its passage in 2017, HB 1306 had died in subcommittee fourteen years running, but a determined Black Caucus

never gave up, and on February 9, 2017, at the beginning of the 110th Session of the Tennessee General Assembly, for the fifteenth year in a row, HB 1306 was introduced. Representative Johnnie Turner (D) Memphis was the bill's primary sponsor in the House and she had a brilliant idea about who should be the primary sponsor in Senate.

When Representative Johnnie Turner entered Senate Republican Majority Leader Mark Norris's legislative chamber in February 2017 and asked him to sponsor the bill in the Senate, he agreed, and a powerful political partnership was forged. Bearing the Senate Majority Leader's imprimatur, the bill, unlike its predecessors, sailed through the sub-committees and committees in both the Senate and the House, and on May 9, 2017, just 89 days after its introduction, HB 1306 was passed by Tennessee's House of Representatives unanimously, 90-0. The very next day the Senate passed the Bill 29-0. Governor Bill Haslam signed the legislation June 6, 2017, and the Joint Special Legislative Committee to study the investigation of civil rights crimes in Tennessee was at long last a reality.

The Speakers appointed to the Joint Special Legislative Committee: Senators Mark Norris (R), Ed Jackson (R) and Thelma Harper (D), and Representatives Johnnie Turner (D) Chair, Tim Rudd (R), and Tilman Goins (R). The Committee held its organizational meeting July 25, 2017, just 174 days before its report to the General Assembly was due January 15, 2018.

With neither budget nor staff of its own, the Joint Special Committee was supported by two able General Assembly lawyers shared by all committees and by a group of institutional and individual volunteers informally organized as Tennesseans for Historical Justice. The Joint Special Committee worked diligently and effectively, holding five public hearings during the Summer and Fall of 2017 that produced testimony about unsolved civil rights bombing, kidnapping and murder in Brownsville, bombings of the Hattie Cotton School, the Jewish Community Center and the home of legendary African-American lawyer Z. Alexander Looby in Nashville, and the bombing of the High School in Clinton.

The Joint Special Committee's bipartisan, unanimous recommendation to the General Assembly in January 2018 took the form of a bill, HB 2624 sponsored by Representatives Turner, Goins, Rudd, Hardaway, Favors, Parkinson, Camper

continued to page 15B



and Coley, and SB 2631 sponsored by Senators Norris, Crowe, Gresham, Harper, Jackson, Tate, and Yarbro. The House passed the bill as amended on April 17, 2018 85-0-PNV 7. The Senate passed the bill as amended, 31-0 on April 23, 2018. The House concurred in the Senate amendment the next day 94-0. The Senate then substituted the House bill for its own and adopted the House bill. The legislation was transmitted to the Governor May 7, and on May 15, 2018, Governor Haslam signed HB 2631 into law as Chapter 966 Tennessee Public Acts of 2018.

Fifteen years of toil finally bore fruit.

Chapter 966, although not self-executing, gives Tennessee the opportunity to become the nation's model. The two major tasks mandated by the statute: a statewide survey of civil rights crimes; and, a statewide program of restorative justice and reconciliation are gargantuan tasks, never before attempted at the state or federal level. Success depends largely on the ability of Tennesseans for Historical Justice volunteers to perform the work in a manner that produces a product of the highest quality.

The survey of civil rights crimes must be an accurate and comprehensive catalog, a body of work that will become a trusted source upon which government, scholars, lawyers and the public can rely and the restorative justice-reconciliation effort must lead the way for other states seeking to heal old wounds that have festered and divided for much too long.

Correctly implemented, Tennessee's groundbreaking law will be a beacon to all states that seek truth and reconciliation through acknowledgment of past crimes, the failures of our justice system and the wounds inflicted by injustice.

The job of implementing Chapter 966 offers Tennessee lawyers an opportunity to be a part of a historic statewide survey of civil rights crimes. The survey is just being organized by Tennesseans for Historical Justice and will likely follow a Grand Division, Judicial District and individual county format. A protocol for the investigative work at the county level is being developed to ensure uniformity of results statewide. Lawyer volunteers are needed to act as co-chairs for each grand division, each judicial district and each individual county. You may volunteer by sending me an email me to: jimemison@gmail.com.

Chapter 966's restorative justice-racial reconciliation program is just as unique as the crimes survey and potentially even more important. Its goal is to organize public ceremonies to candidly acknowledge the truth of our often violent past, admit the injustice of unprosecuted wrongs and lever publicly acknowledged truth and regret to reconcile longstanding and deep wounds caused by both the original crime and by our society's failure to pursue justice for the victim.

To achieve reconciliation, the truth of the magnitude of past injustices must be first acknowledged. Truth comes first and without truth first, never will reconciliation be possible. To grasp the magnitude of Tennessee's racial crimes and systemic failures of justice use this link <https://etd.library.vanderbilt.edu/available/etd-07262010-142217/unrestricted/CarrieRussellDissertation.pdf> to read Dr. Carrie A. Russell's excellent and chilling 2010 doctoral dissertation in political science at Vanderbilt: *Reckoning With A Violent and Lawless Past: A Study of Race, Violence and Reconciliation* in Tennessee. You will learn more than you might want to know about racial atrocities committed with impunity in Tennessee.

Acknowledging truth is painful, but necessary. Truth comes first, then reconciliation.

If you have participated in a lynching memorial where each person in attendance transferred a hand-trowelful of soil collected from a lynch site, a place of murder, to an urn bearing the victim's name that will be permanently displayed in the Equal Justice Initiative's museum in Montgomery, Alabama, then you know the healing power of the acknowledgment of the truth of injustice and the expression of regret for such a horribly violent and lawless act. If you have heard a centenarian who witnessed a lynch mob or personally knew a lynch victim publicly share their story with members of the lynch victim's family, you have witnessed profound catharsis and appreciation that acknowledgement of truth and expression of empathy brings. If you have heard a member of a lynch victim's family speak publicly of their loss, the effect on their family, and their appreciation for public recognition of the wrong, then you have witnessed the binding of deep wounds.

If you doubt the power of truth and reconciliation in such public memorials, ask Senator Mark Norris or Ed Jackson or Representative Johnnie Turner. They know.

Chapter 966's statewide restorative justice reconciliation effort will be led by John Ashworth, current Executive Director of the Lynching Sites Project Memphis & Shelby County. You may volunteer to organize an event or events in your county by sending an email to: jashworth1961@yahoo.com.

Enactment of Chapter 966 gives Tennessee the opportunity to lead the way to truth and reconciliation. We can make Tennessee's program the benchmark for which others strive, but it will take hard work, and a willing heart. Tennessee has embarked on an honorable quest to right many wrongs. We must get this right. Let us right ancient wrongs. There can be no turning back.



ABOUT THE AUTHOR

A TTLA Past President, Jim Emison is a 1968 graduate of the University of Tennessee College of Law. He and the late Joe Henry are the only persons to have served as president of both the Tennessee Trial Lawyers and Tennessee Bar Associations.

Jim served as Law Clerk to the Tennessee Chief Justice 1968-1969, and in the US Navy JAGC 1969-1971. In private practice 1972-2011, Jim still fancies himself a courtroom lawyer. Decades ago when a dear friend referred to him as "a country lawyer made good", Jim considered the "country" adjective objectionable, but the years have taught him the truth of his friend's kind observation.

Jim's son Theo is a founding partner of the San Francisco plaintiff's law firm of Emison-Hullverson.

After "retirement" Jim has devoted the last six years to civil rights causes including, investigating, speaking and writing about the June 20, 1940, murder of Elbert Williams, in Brownsville, Tennessee, the first NAACP member in the nation murdered for his civil rights work. The Williams' murder case was reopened by District Attorney Garry G. Brown August 8, 2018. Jim's work on the Williams' case has been featured in two Associated Press articles published internationally, on NPR's *All Things Considered*, and in media around the nation.

Jim is currently working with Tennesseans for Historical Justice to perform the statewide civil rights crimes survey and the restorative justice-reconciliation program mandated by Chapter 966 and is writing a book about the Williams' murder with the working title, Elbert Williams First To Die. More information is available at Jim's website: elbertwilliamsfirsttodie.com.¹

¹ Full Text of Chapter 966:

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 966

HOUSE BILL NO. 2624

By Representatives Turner, Goins, Rudd, Hardaway, Favors, Parkinson, Camper, Coley

Substituted for: Senate Bill No. 2631

By Senators Norris, Crowe, Gresham, Harper, Jackson, Massey, Tate, Yarbro

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4 and Title 62, relative to boards and commissions.

WHEREAS, in enacting the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016 (Public Law No. 114-325), Congress expressed its sense that all authorities with jurisdiction over unsolved civil rights crimes should meet regularly with civil rights organizations, institutions of higher education, and department of justice-designated entities to coordinate information sharing and discuss the status of work in this area; and

WHEREAS, an article in Politico noted, "Almost all of the civil rights cold cases that have been resolved in the last forty (40) years owe that resolution to the efforts of reporters, investigative journalists, and local prosecutors"; and

WHEREAS, Tennessee is in need of a central repository to gather, store, refer, and coordinate efforts presently ongoing in the private sector and institutions of higher education; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 3, is amended by adding the following as a new chapter:

3- 19-101.

(a) On the effective date of this act, there is created the "Tennessee Civil Rights

Crimes Information, Reconciliation, and Research Center" within the office of minority affairs created by Senate Joint Resolution No. 61 of the Public Acts of 1981.

(b) The Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center shall serve as a civil rights crimes remembrance and reconciliation repository, function as an informational clearinghouse on unsolved civil rights crimes and cold cases in this state, and coordinate volunteer activities throughout the state pertinent to the mission and duties of the center.

(c) The staff of the office of minority affairs shall also serve as staff for the Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center. The duties of the center shall include:

(1)

(A) Conducting a statewide survey of civil rights crimes in Tennessee, both solved and unsolved, by utilizing available volunteer resources. In designating volunteers and volunteer coordinators to conduct the survey, the director shall utilize the services of public and private sector institutions, including, but not limited to, the various Tennessee schools of law, universities and colleges, including the historically black universities and colleges such as Lemoyne-Owen, Lane, Fisk, Meharry, and Tennessee State, as well as private sector groups such as Tennesseans for Historical Justice.

(B) The director shall have the authority to design and distribute the survey to the volunteer coordinators to ensure to the extent possible the results will be uniform from county to county, designate volunteers and volunteer coordinators in participating geographic areas, act as a central coordinator to prevent duplicative and inconsistent results, catalogue and compile the results of the survey, and transmit the results of the survey in the report required by subdivision (c)(9);

(2) Determining if any information submitted in the survey described in subdivision (c)(1), or by any other method the director acquires information, may still be subject to possible criminal prosecution and transferring any such information to the appropriate state and local law enforcement agencies, district attorneys general, and federal United States attorneys general with jurisdiction for the locations involved;

(3) Communicating, discussing, and meeting with the department of justice as suggested by congress in the Emmett- Till Unsolved Civil Rights Crimes Reauthorization Act of 2016 to coordinate activities surrounding unsolved civil rights crimes and cold cases believed to have occurred in this state;

(4) Collecting and maintaining, within the center, pertinent information on pending conferences, workshops, public hearings, remembrance and reconciliation events, information on the ten (10) Tennessee stops on the new Civil Rights Trail, information on the activities surrounding the fiftieth anniversary of the Dr. Martin Luther King assassination, and other meetings concerning unsolved civil rights crimes and cold cases occurring in this state;

(5) Coordinating with the state archivist to determine if any material, information, report, or other document received by the Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center is of historical significance and possesses the indicia of authenticity necessary to consider its transfer to the state library and archives for permanent display and storage;

(6) Assisting the public and federal, state, and local government entities with inquiries regarding information on unsolved civil rights crimes and cold cases in this state;

(7) Initiating and participating in any reconciliation actions, meetings, ceremonies, services, and other similar activities on behalf of the state of Tennessee;

(8) Researching, seeking, and applying for any available funding or grants from the federal government or the private sector awarded for any of the purposes of the Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center; and

(9) Submitting a report by January 30th, 2019, and each January 30th thereafter, to the speaker of the senate and the speaker of the house of representatives, the senate judiciary committee, and the house of representatives criminal justice committee of the general assembly detailing the activities of the Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center since the effective date of this act.

3- 19-102.

(a) The Tennessee Civil Rights Crimes Information, Reconciliation, and Research Center shall obtain and operate a website and a toll-free telephone line for the express purpose of receiving information related to unsolved civil right crimes and cold cases in this state.

(b) The Center shall regularly undertake appropriate activities to inform and remind the citizens of this state of the services provided by the Center and of the availability of the website and toll-free telephone line. Such promotional activities shall regularly include, but not necessarily be limited to, press releases, posters, speeches, and public service announcements on radio and television. The Center shall undertake special activities to improve public awareness of the Center within those counties and areas of the state with the highest numbers of unsolved civil rights crimes and cold cases based upon available information.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 2624

PASSED: APRIL 24, 2018

BETH HARWELL, SPEAKER HOUSE OF REPRESENTATIVES

RANDY MCNALLY, SPEAKER OF THE SENATE

APPROVED THIS 15th DAY OF MAY 2018

BILL HASLAM, GOVERNOR

² Elbert Williams was the first NAACP member in the nation murdered for his civil rights work, on June 20, 1940, in Brownsville, Haywood County, Tennessee. He supported the NAACP Branch's effort to register African American voters and his murder was the culmination of a white terror campaign designed to destroy the NAACP Branch and to terrorize potential African American voter registrants. The terrorism succeeded, securing 20 additional years of white political hegemony in a majority black county.

