



Written by [Joe Wolverton, II, J.D.](#) on September 16, 2011

Constitutional Sheriff Bill Introduced in Tennessee

A new bill making its way through the Tennessee General Assembly states that a federal employee who is not designated as a Tennessee peace officer may not make an arrest or conduct a search and seizure in the Volunteer State without the express consent of the sheriff of the county in which the arrest, search, and seizure is to occur except under certain enumerated circumstances.

The measure, [SB 1108](#), is currently under consideration by the Senate Judiciary Committee (a companion measure offered on the House side has been referred to the House General Subcommittee on the Judiciary).



The primary author of the legislation is a lawmaker familiar with controversy — [Senator Stacey Campfield](#) (R-Knoxville, pictured). Campfield received vitriolic criticism by many for another bill he sponsored derisively (and incorrectly) nicknamed the “[Don't Say Gay Bill](#).”

That bill, as [reported](#) by *The New American*, seeks to forbid public school elementary and middle school teachers from “furnishing any materials on human sexuality other than heterosexuality.” As of today, the amended version of that bill has been passed by the state Senate and is awaiting transmission to the state House of Representatives.

Campfield’s latest offering takes aim at the encroachment by federal officers into what should be the exclusive jurisdiction of state law enforcement officials. This bill and similar measures offered in other states is known as a “Constitutional Sheriff Bill.”

The goal of both Senator Campfield’s measure and the others offered nationwide was described in an [article](#) published last year in *The New American*:

The borders around Montana are being blurred by an overreaching federal government bent on obliterating state sovereignty and assuming all governmental power unto itself. That’s the opinion of Rex Nichols, a candidate for sheriff of a rural county in Montana. Nichols is a retired police officer and he’s on a mission — to stop the freight train of federal absolutism in its tracks and restore power to the state and local governments.

Nichols isn’t alone on his quest. There are dozens of candidates for sheriff nationwide who share his view on the supremacy of state government and the constitutional locus of police power. These lawmen read the Constitution and nowhere in it do they find authorization for the federalization of law enforcement. In fact, they argue, the Constitution’s federal system endows local police with greater authority than any federal agent when it comes to enforcing the laws in their counties.

The specific measure offered by Senator Campfield is written boldly and clearly delineates the constitutional boundary between rightful state police authority and the unlawful exercise of that power by agents of the federal government.



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So plain and powerful is the bill that it empowers the county sheriff (or his agent) to refuse permission to the federal officer to “make an arrest or conduct a search or seizure for any reason that the sheriff or designee considers sufficient.” The final arbiter of sufficient cause is the sheriff himself. This is a commendable expression of the sovereignty of the states as intended and protected by our Constitution and the men who framed it.

According to the provisions set forth in Section 1, Paragraph 5 (c) of the bill:

A federal employee who desires to make an arrest or conduct a search or seizure under subdivision (a)(4) shall obtain the written permission of the attorney general and reporter for the arrest, search, or seizure unless the resulting delay in obtaining permission would probably cause serious harm to one or more individuals or to a community or would probably allow time for flight of the subject of the arrest, search, or seizure in order to avoid prosecution. The attorney general and reporter may refuse the permission for any reason that the attorney general considers sufficient.

No vague request will satisfy the mandates of the measure were it to be enacted by the General Assembly of the Tennessee and signed into law by the governor. In fact, the bill explicitly requires that the permission request contain the following information:

- (A) The name of the subject of the arrest, search, or seizure;
- (B) A clear statement of probable cause for the arrest, search, or seizure or a federal arrest, search, or seizure warrant that contains a clear statement of probable cause;
seized;
- (C) A description of the specific things to be searched for or
- (D) A statement of the date and time that the arrest, search, or seizure is to occur; and
- (E) The address or location where the intended arrest, search, or seizure will be attempted.

Once submitted, the local law enforcement agency to whom the written request was submitted has 48 hours to decide whether to extend to the federal agent permission to make the arrest, search, or seizure for which the petition was made.

The serious and very powerful posture struck by the measure is undeniable. In Section 1, Paragraph (f), the proposed law sets forth the punishments to be imposed upon a federal officer failing to conform to the dictates thereof:

An arrest, search, or seizure or attempted arrest, search, or seizure in violation of subsection (a) is unlawful, and the persons involved shall be prosecuted by the county attorney for kidnapping if an arrest or attempted arrest occurred, for trespass if a search or attempted search occurred, for theft if a seizure or attempted seizure occurred, and for any applicable homicide offense if loss of life occurred. The persons involved shall also be charged with any other applicable criminal offense.

Furthermore, if any county attorney fails to timely and properly prosecute the federal agent accused of violating the law’s mandates regarding arrest, search, and seizure, that attorney is subject to recall by the voters and “to prosecution by the attorney general for official misconduct.”

Gratefully, the state of Tennessee is not shrinking from its sovereign position. Strict constitutionalists will praise Senator Campfield and his co-sponsors for their rigid adherence to the principles of



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federalism and states' rights that undergird our federal charter.

To their credit, these state lawmakers specifically cite the Tenth Amendment to the United States Constitution in its concluding paragraph wherein is declared:

Pursuant to the tenth amendment to the United States constitution and this state's compacts with other states, the general assembly declares that any federal law purporting to give federal employees the authority of a county sheriff in this state is not recognized by and is specifically rejected by this state and is declared to be invalid in this state.

Also, as is so unashamedly stated on a [website](#) devoted to furthering the cause of the Constitutional sheriffs and peace officers throughout the Republic:

'Timid men prefer the calm of despotism to the tempestuous sea of liberty.' The [Constitutional Sheriffs and Peace Officers Association] will unite the sheriffs, police, and local officials who are willing and courageous enough to join us in the 'tempestuous sea of liberty.' I am asking you to join with us.

'If we fail, we fail while daring greatly, so that our posterity will never place us among those cold and timid souls who knew neither victory nor defeat.'

Thankfully, there seem to be a growing number of citizens willing and ready to set sail on the "tempestuous sea of liberty" and repair the formerly impregnable walls of sovereignty once erected around all the states in the union.



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