

## Republicans vote out Dems Jones and Pearson, balk at Johnson

House Republicans on Thursday voted to oust Democratic Reps. Justin Jones of Nashville and Justin Pearson of Memphis. But an effort to throw out Rep. Gloria Johnson of Knoxville fell one vote short of the two-thirds threshold.

Republican members were outraged by what they considered a premeditated act to disrupt proceedings last week in the aftermath of a mass shooting at a Nashville school last week that left six people dead, including three nine-year-olds. They presented a seven-minute video of Jones and Pearson using a megaphone to address protesters in the gallery and lead them in chants. But it also showed Johnson standing beside them, but not using the bullhorn, carrying a sign, or pounding on the desk. Democrats objected to the film being shown in the chamber as part of the ouster proceedings, arguing it had been made in violation of rules banning members from making recordings on the floor.

The ouster votes were 72-24 on Jones, 69-26 on Pearson, and 65-30 on Johnson.

**Backstory.** Sexton had at first appeared to side with those counseling restraint after the disturbance took place. He urged members to remain calm and respectful, no matter the anger and frustration they were feeling after the mass shooting. He then resumed consideration of the calendar and even called on Pearson during the dry debates that followed. As *Tennessee Lookout* reporter Sam Stockard observed, the chamber had, within an hour, gone “from complete chaos to C-SPAN.”

But Sexton soon changed his tune, seemingly endorsing a narrative established by the conservative Daily Wire website that “left-wing protesters” had taken over the floor session. Sexton poured fuel on the fire in a talk radio appearance by likening the incident to the U.S. Capitol insurrection on Jan. 6, 2021. “What they did today was at least equivalent, or maybe worse, depending on how you look at it,” Sexton said.

But in stark contrast to the violent events in Washington, everyone at the state Capitol last week had been screened by security and none had been arrested. The speaker appeared to try to walk back his comments later, claiming he was only referring to the actions by the three lawmakers and not the peaceful protesters.

Johnson and Jones were stripped of their committee assignments (Pearson had yet to be appointed to any when the order came down). Some hoped those steps, perhaps combined with an official censure, would have been enough to punish the lawmakers — and warn them that further actions could result in their expulsion.

But Republicans were beset by renewed indignation on Monday when Jones and Pearson led groups of demonstrators to their legislative offices. The resolutions to initiate ouster proceedings were introduced on the House floor on Monday evening, sparking a scuffle between members (Jones filed an assault complaint with the Nashville police against Republican Rep. Justin Lafferty of Knoxville).

**Minimal precedent.** The last time the House expelled multiple members was in 1866, when six representatives were thrown out for conspiring to deprive the chamber of a quorum during a special session to ratify the Fourteenth Amendment to the U.S. Constitution. Two “bolters” were apprehended and locked in a room adjoining the House floor, but Speaker William Heiskell ruled they didn’t count toward the two-thirds of members needed to conduct business. He was overruled by the body, which approved the amendment 43-11. Heiskell refused to sign the resolution and resigned from the top leadership post in protest.

Only two other House expulsions have occurred since. Rep. Robert Fisher, a Carter County Republican, was removed in 1980 for soliciting a bribe. And Rep. Jeremy Durham (R-Franklin) was ousted in 2016 over allegations of serial sexual misconduct. The maneuver is even more rare in the Senate. Following a federal fraud conviction, Sen. Katrina Robinson (D-Memphis) last year became the first member drummed out of the upper chamber since at least the Civil War.

**Professional protester.** Jones has made a career out of staging protests at the statehouse. He was arrested and banned from the facility in 2019 after launching a disposable coffee cup at then-House Speaker Glen Casada (R-Franklin) and others on a Capitol elevator. Casada’s camp sought to make political hay of the matter by creating an ominous black-and-white video of the elevator incident, and top aide Cade Cothren alleged Jones had violated a sub-

sequent stay-away order by sending an email to the speaker. Jones claimed his email had been doctored, which drew the attention of WTVF-TV investigative reporter Phil Williams.

A special prosecutor ultimately decided the email had been caught in legislative spam filters, but Williams and *Tennessean* reporters Joel Ebert and Natalie Allison were inspired to start digging into unrelated activities of Casada and Cothren that ended up with both being driven from their positions of power.

Jones' activism didn't end there, and legislative security would often try to prevent him from entering the House gallery until he was elected to the chamber in 2022. There has been some grumbling in activist circles that Jones is more interested in gaining attention for himself than for the causes he supports. Gun protests involving young people from across the region had made Republican lawmakers uneasy because they also included numerous students from private schools, whose parents tend to lean conservative. But with the attention shifted to the ouster proceedings, the hundreds of demonstrators who crammed onto the Capitol plaza and into the building became almost an afterthought.

**Decorum decisions.** Casada's truncated speakership was marked by his insistence on maintaining order and decorum in the chamber — a position that opponents saw as a thinly veiled attempt to stamp out dissent.

Then-Rep. David Byrd (R-Waynesboro) became the subject of regular protests after he was accused of sexual misconduct with teenage basketball players when he was their coach in the 1980s. Six women who attended a subcommittee chaired by Byrd were removed for carrying placards demanding he resign. After many observers noted signs and printed t-shirts have long been commonplace during emotional debates at the legislature, Casada relented. None of the women were removed when they returned the following week (though the heavy contingent of reporters on hand to document the encounter might have played a role, too).

In the final day of Casada's only session in charge, Democrats were outraged by their exclusion from conference committees. Noting several Republican absences, they started trickling out of the chamber in an effort to deny the House a quorum. When GOP leaders figured out what was happening, Casada ordered the doors of the chamber to be locked to prevent further losses, creating a chaotic scene in which several members tried to push their way past state troopers and sergeants-at-arms. The crisis was eventually averted when three Democrats returned to their seats. But hard feelings threatened to bubble over into physical confrontations before an uneasy peace could be brokered.

**Can they do that?** The Tennessee Constitution, in Article II, Section 12, provides that each house “may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.”

When the House was poised to oust Durham in 2016, the lawmaker was given notice that the motion would be taken up the following day. He was then given the opportunity to address the chamber and answer his colleagues' questions. Durham ended up walking out before the House voted 70-2 to oust him. Durham filed a lawsuit after his expulsion and

subsequent loss of state health and pension benefits, arguing his due process rights had been violated. The 6th Circuit U.S. Court of Appeals affirmed a district judge's decision that a legislative seat is not a property right and that he was not entitled to due process under the state constitution.

**What now?** Vacancies in the House can be filled on an interim basis by county commissions until special elections can be held. The three lawmakers face differing prospects for returning to the Capitol. Jones is the likeliest to be reappointed to the seat on an interim basis by members of the Nashville Metro Council, which has been in the firing line by lawmakers all session (though some council members facing the prospect of a new law cutting the size of the body in half might have their own designs on a seat in the General Assembly). The House might refuse to seat Jones if he is sent back to the Capitol, but the constitution may rule out that option if he again wins the seat in a special election.

Johnson's chances for reappointment by the Republican Knox County Commission would have been close to nil. Pearson's prospects will depend on how much patience the Democratic Shelby County Commission has for his style of politics. Technically only elected to succeed the late Rep. Barbara Cooper (D-Memphis) last month — he had been serving on an interim basis since winning the primary — Pearson's background in community activism might turn off more traditional politicians, some of whom might want others to have a chance at the seat.

**Situation normal.** Even in the best of times, the House is hardly a bucolic place. Debates become pointed, tempers flare, and more than one oral confrontation has threatened to devolve into a physical one. Not too long ago, two senior members of their respective parties came to an agreement to not carry their handguns on the floor to prevent their frequent disagreements from escalating out of control.

Protesters have been a regular sight — and sound — at the state Capitol for decades, raising their support or opposition to a myriad of issues including taxes, outsourcing of government jobs, Medicaid expansion, abortion, union rights, and Confederate monuments.

Members straying from the rules is hardly unheard of, either. In 2019, House Minority Leader Karen Camper (D-Memphis) caught Speaker Casada off guard when she grabbed his microphone at the podium to voice objections to efforts to cut off debate over a Medicaid block grant bill, causing him to gavel her out of order from close range. She later apologized for getting caught up in the moment.

Here's a look at some past protest actions:

- Amid a last-gasp effort to find an income tax compromise in 2001, then-state Sen. Marsha Blackburn (R-Brentwood) emailed her assistant instructing her to contact conservative radio talk show hosts and others to “send troops.” Horn-honking protesters soon began circling the Capitol. Dozens got inside and pounded on the Senate doors while members were meeting. Several GOP colleagues described it as a “mob scene,” and Republican Gov. Don Sundquist said Blackburn had encouraged “disruptive behavior and disruptive acts.” Some Democrats suggested Blackburn should be censured, but nothing ever

# Tennessee News Digest

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- Fifteen people were killed in weekend storms that lashed the state, including nine in McNairy County. The Tennessee Emergency Management Agency said 259 homes were damaged by severe weather.
- The Tennessee Valley Authority is preparing to return the remains of more than 4,800 Native Americans to their ancestors in 21 tribes. The public utility filed notice with the Federal Register that the remains and burial

items removed from sites in Tennessee, Kentucky, and Alabama will be available to be claimed after April 29.

- Memphis-based FedEx Corp. plans to bring its Express and Ground units into a consolidated operating structure. But FedEx Freight will continue to operate as a stand-alone company with its own leadership team.
- Chattanooga is hosting a demonstration World Rally Championship event this week-

end as it works to land a full race weekend in Hamilton, Bradley, and Polk counties next year. The last time the international series competed in the United States was in Shelton, Wash., in 1988.

- Roy McGrath, a onetime chief of staff to former Maryland Gov. Larry Hogan, died following a shootout with FBI agents in Knoxville on Monday. McGrath was on the run after failing to show up for his corruption trial.
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came of it. She capitalized on the publicity from the protests to win a bid for Congress in 2002. She was elected to the U.S. Senate in 2018.

- Opponents of Democratic Gov. Phil Bredesen's Tenn-Care cuts in 2005 took to the Capitol, ringing bells and carrying signs saying, "People will die." Protesters camped out in the lobby outside the governor's office for 77 days. While some advisers wanted them forcibly removed, Bredesen decided to take a more diplomatic approach. He showed up one weekend to deliver lunches from McDonald's.

- Lawmakers were outraged in 2006 when protesters seeking better care for the disabled — many of them in wheelchairs — encircled Legislative Plaza and blocked members and staff from leaving its parking garage. Bredesen refused to meet with the group, saying he would not participate in a "political spectacle" staged by "professional protesters."

- Senate Speaker Randy McNally posited a return to requiring Capitol complex visitors to submit their IDs before entering the facility after protesters disrupted a press conference by lawmakers seeking to restore a gay marriage ban in the state. One of the bill sponsors was then-Sen. Mae Beavers (R-Mt. Juliet), who brought in private security in response to protesters like Jones holing up in her office and knocking on doors. McNally's office told Beavers her guards couldn't be armed, and the ID proposal was abandoned.

- In the aftermath of the police killing of George Floyd in 2020, legislative leaders at first sought to keep protesters out of the Capitol due to COVID-19 restrictions. But they relented after being confronted about letting in other visitors like then-U.S. Senate candidate Bill Hagerty. The House erupted into chaos after 39 Republicans abstained on a resolution to honor a slain Nashville teenager after Majority Leader William Lamberth raised concerns about her alleged involvement in a small marijuana sale.

Rep. Antonio Parkinson (D-Memphis) shouted profanities in frustration, leading Speaker Sexton to demand a return to decorum. Protesters were cleared from the gallery when they broke out in jeers. Audience members were thrown out again the next day when they began reciting the Lord's Prayer after the chamber rejected an amendment to remove a Nathan Bedford Forrest bust from the Capitol.

- Black Lives Matter demonstrations went on for 50 days outside the statehouse in 2020. The activists appeared ready to declare victory and move on when Gov. Bill Lee issued a special session call that included a bill to increase penalties for illegal behavior during protests. Instead of fizzling out, the protests were injected with a new sense of urgency.

## Obituary

### **Mickey Barker, lone dissenter in landmark Tennessee abortion case**

William M. "Mickey" Barker, whose 25 years as a judge culminated in a decade on the Tennessee Supreme Court, died Monday at age 81.

Barker, the high court's only Republican at the time, was the lone dissenter on *Planned Parenthood v. Sundquist*, a 2000 decision that found abortion restrictions (which had been enacted by the state's Democratic legislature) violated privacy protections in the Tennessee Constitution. Barker wrote at the time the decision removed all power from the people to enact reasonable regulations of abortion, "except by constitutional amendment."

Barker's words became a rallying cry for a multi-year effort to place an amendment before the voters to declare nothing in the state constitution secures a right to an abortion. It was adopted 53% to 47%.

Gov. Lamar Alexander named Barker to a circuit court judgeship in Hamilton County in 1983 and fellow Republican Gov. Don Sundquist made him his first appellate court appointee in 1995. Barker was also Sundquist's choice to fill a Supreme Court vacancy in 1998.

In 2006, Barker declined to answer eight of 10 parts of a questionnaire presented by the Family Action Council of Tennessee because they might affect issues coming before the court. "There's a constitutional right to speak and an ethical right not to speak," Barker said. For the questions he did respond to, Barker pointed to his previous rulings on abortion and the death penalty.

Barker left the state's highest court in 2008 (his successor, Sharon Lee, is retiring in August). Barker was a vocal opponent of efforts spearheaded by then-Senate Speaker Ron Ramsey (R-Blountville) to defeat Lee and two other Democratic justices in 2014, appearing in a television ad to say while he was a Republican, "politics has no place in our courts." Barker in an interview with the *New York Times* blamed Ramsey for untruthful attacks on the justices. "I use this word very advisably," he told the paper. "They were lies." All three justices prevailed by large margins.

When lawmakers in 2003 voted to create a special judicial license plate for motorcycles, speculation ran rampant about whether it was passed to benefit Barker, who was once an avowed Harley owner. But by that point, Barker had given up riding.

## Tennessee Notes & Quotes

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■ “A week ago, at 10:28 a.m., I received the most terrifying call a parent could imagine: a shooter was at the school of my three children. . . . While our family is safe now, the trauma from that day & the memories of six friends, classmates, leaders, & servants will be with us for the rest of our lives.” — **Brent Leatherwood**, the president of the *Ethics and Religious Liberty Commission of the Southern Baptist Commission*, about the fatal shooting at Nashville’s Covenant School. Leatherwood is a former executive director of the Tennessee Republican Party and a onetime spokesman for the GOP caucus in the state House.

■ Democratic state Sen. **Heidi Campbell**, who unsuccessfully ran against Republican **Andy Ogles** in the 5th Congressional District race last year, announced she will run for Nashville mayor in August. Current Mayor **John Cooper** is not seeking a second term.

■ **Campbell** made her announcement on the steps of the Metro Nashville Courthouse on Wednesday while the Senate debated the creation of a narrow exception to the state’s sweeping abortion ban for doctors who terminate pregnancies if the mother is at risk of serious medical harm or death. The bill didn’t include exceptions in cases of rape or incest. The measure passed 26-1 and is now on the way to Gov. **Bill Lee’s** desk. Democratic Sen. **Jeff Yarbro**, who is also running for Nashville mayor, was the lone vote against. Republican Sen. **Mark Pody** (R-Lebanon) and three Democrats abstained. Campbell and Sen. **Sara Kyle** of Memphis (who attended the mayoral announcement) were absent. Campbell returned before the floor session ended and asked to be registered as having voted no on the abortion bill.

■ *The Tennessean* has hired **Vivian Jones** as a statehouse reporter. Jones previously wrote about government and politics for *Main Street Nashville* and *The Center Square*. Before becoming a journalist, Jones worked for two years as a legislative assistant. She succeeds **Adam Friedman**, who now writes for the *Tennessee Lookout*.

■ Liberal activist **Justin Kanew** said his home was fired on over the weekend while his family was sleeping. Kanew runs the *Tennessee Holler* website and has drawn the ire of Republican officials by chasing them through the Capitol complex shouting questions at them. The Williamson County Sheriff’s Office is investigating the incident.

■ “This violence has no place in a civilized society and we are thankful no one was physically hurt.” — **Kanew**.

■ Photographer **George Walker**, who began working for *The Tennessean* as a 19-year-old intern in 1990, has joined the staff of the Associated Press in Nashville. Walker took a viral 2020 photo of then-Rep. **Kent Calfee** (R-Kingston) drinking from a chocolate syrup bottle on the House floor.

■ Knoxville officials had asked Gov. **Bill Lee** for \$50 million in state funds to help pay for a \$70 million pedestrian bridge over the Tennessee River. The governor included \$20 million in his budget amendment, with officials saying the rest of the cost of the 1,660-foot span connecting the University of Tennessee campus to South Knoxville could be paid for with federal, local, and school funds.

■ **Maggie Carter**, a Starbucks employee who led efforts to unionize a store in northwest Knoxville last year, testified before the U.S. Senate Health, Education, Labor and Pensions Committee about what she called the company’s attempts to punish workers who wanted to organize.

■ The House voted 79-11 to give final approval to a bill to declare a 30-mile stretch of the Duck River in Maury County as a Class II scenic river and prohibit landfills within two miles. The measure was sponsored by Rep. **Scott Cepicky** (R-Culleoka) and Sen. **Joey Hensley** (R-Hohenwald).

■ “This is not about a scenic river. This is about weaponizing a law about scenic rivers that has one designation in it, and that is to prevent landfills — existing landfills or future landfills — from existing in a certain range. That’s what this is about. So I ask you to think long and hard whether you’re going to take away a person’s rights under our law, without compensating them.” — Rep. **Chris Todd** during the floor debate. *The Jackson Republican* said supporters had been untruthful when they said property owners did not oppose the bill when at least two landfill operators said they did.

■ “To accuse members of my community of coming up here and lying to the General Assembly, it is reprehensible for a representative to do that. I cannot believe that happened right here on the House floor.” — **Cepicky** in response.

■ Ryman Hospitality Properties has nominated former Gov. **Bill Haslam** to its board of directors.

■ The Metro Nashville Sports Authority unanimously approved a deal to build a \$2.1 billion domed stadium next to the Tennessee Titans’ current home. But the Metro Council decided to delay until next week the second of two readings of an ordinance to put the agreement into effect. Some council members have raised concerns about committing to paying off \$790 million in local bonds amid efforts by the legislature to give the speakers and the governor the power to name six of 13 members of the sports authority.

■ The Senate voted 26-5 to pass an amended bill preventing the city of Nashville from spending special tax revenues from the Music City Center on anything but paying off debt and capital upgrades for the convention center. The original version introduced at the behest of Senate Speaker **Randy McNally** (R-Oak Ridge) would have eliminated the privilege tax and a \$2 surcharge on vehicles hired at the airport, an estimated \$115 million hit to the city’s finances. The fiscal note for the bill as passed estimates no fiscal impact. The companion bill is in the House Finance Subcommittee.

■ Both chambers unanimously approved a bill to redraw the county line running through Arlington after redistricting maps last year showed former Shelby County Republican Party Chair **Lee Mills** and his wife, County Commissioner **Amber Mills**, actually lived in neighboring Fayette.

■ “Didn’t these folks run against you?” — Rep. **Antonio Parkinson** (D-Memphis) to bill sponsor **Tom Leatherwood** (R-Arlington), who defeated **Lee Mills** in last year’s GOP primary for House District 99.

■ “I renew my motion.” — **Leatherwood**.