

Amendment No. 1 to HB2656

Curcio  
Signature of Sponsor

**AMEND Senate Bill No. 2248\***

**House Bill No. 2656**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following as a new subsection:

(bb)

(1) Notwithstanding this section to the contrary, there is no release eligibility for a person committing an offense, on or after July 1, 2022, that is enumerated in subdivision (bb)(2). The person shall serve one hundred percent (100%) of the sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. The person is permitted to earn credits for which the person is eligible, and the credits may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

(2) The offenses to which subdivision (bb)(1) applies are:

(A) Aggravated assault, as defined in § 39-13-102(a)(1)(A)(iii) or (a)(1)(B)(iii), if the offense involved the use of a deadly weapon;

(B) Aggravated assault, as defined in § 39-13-102(a)(1)(A)(iv);

(C) Aggravated assault against a first responder or nurse, as defined in § 39-13-116(b)(3), if the offense involved the use of a deadly weapon;

(D) Aggravated assault against a first responder or nurse, as defined in § 39-13-116(b)(4);

(E) Second degree murder, as defined in § 39-13-210;

- (F) Voluntary manslaughter, as defined in § 39-13-211;
- (G) Criminally negligent homicide, as defined in § 39-13-212;
- (H) Vehicular homicide, as defined in § 39-13-213;
- (I) Reckless homicide, as defined in § 39-13-215;
- (J) Aggravated vehicular homicide, as defined in § 39-13-218;
- (K) Involuntary labor servitude, as defined in § 39-13-307;
- (L) Trafficking persons for forced labor or services, as defined in § 39-13-308;
- (M) Possessing a firearm or antique firearm during commission of or attempt to commit a dangerous felony, as defined in § 39-17-1324;
- (N) Attempted first degree murder, as defined in § 39-13-202, where the victim suffers serious bodily injury, as defined in § 39-11-106;
- (O) Aggravated kidnapping, as defined in § 39-13-304;
- (P) Especially aggravated kidnapping, as defined in § 39-13-305;
- (Q) Aggravated robbery, as defined in § 39-13-402;
- (R) Especially aggravated robbery, as defined in § 39-13-403;
- (S) Carjacking, as defined in § 39-13-404;
- (T) Aggravated burglary, as defined in § 39-13-1003;
- (U) Especially aggravated burglary, as defined in § 39-13-1004;
- (V) Aggravated arson, as defined in § 39-14-302; and
- (W) The manufacture, delivery, or sale of a controlled substance, as defined in § 39-17-417, where the instant offense is classified as a Class A, B, or C felony and the person has two (2) or more prior convictions for the manufacture, delivery, or sale of a controlled substance classified as a Class A, B, or C felony, pursuant to § 39-17-417, prior to or at the time of committing the instant offense.

(3)

(A) "Prior conviction" means, for purposes of this subsection (bb), unless the context otherwise requires, that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of the applicable offense listed in subdivision (bb)(2)(W).

(B) "Prior conviction" includes convictions under the laws of any other state, government, or country that, if committed in this state, would constitute the applicable offense listed in subdivision (bb)(2)(W). If a relevant offense in a jurisdiction other than this state is not identified as the applicable offense listed in subdivision (bb)(2)(W) in this state, then it is considered a prior conviction if the elements of the felony are the same as the elements for the applicable offenses listed in subdivision (bb)(2)(W).

(C) "Separate period of incarceration or supervision" includes a sentence to any of the sentencing alternatives set out in § 40-35-104(c)(3)-(9). The applicable offense listed in subdivision (bb)(2)(W) is deemed as having been committed after a separate period of incarceration or supervision if the offense is committed while the person was:

(i) On probation, parole, or community correction supervision for the applicable offense listed in subdivision (bb)(2)(W);

(ii) Incarcerated for the applicable offense listed in subdivision (bb)(2)(W);

(iii) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution

release, or medical furlough for the applicable offense listed in subdivision (bb)(2)(W); or

(iv) On escape status from any correctional institution when incarcerated for the applicable offense listed in subdivision (bb)(2)(W).

SECTION 2. Tennessee Code Annotated, Section 40-35-501(i), is amended by adding the following new subdivisions:

(4) For the offenses of murder in the second degree, especially aggravated kidnapping, aggravated kidnapping, especially aggravated robbery, or aggravated arson, this subsection (i) only applies to offenses committed on or after July 1, 1995, and before July 1, 2022.

(5) For the offenses of rape, aggravated sexual battery, aggravated child abuse, sexual exploitation of a minor, aggravated sexual exploitation of a minor, or especially aggravated sexual exploitation of a minor, this subsection (i) only applies to offenses committed on or after July 1, 1995, and before July 1, 2021.

SECTION 3. Tennessee Code Annotated, Section 40-35-501(j), is amended by deleting the language "on or after January 1, 2008" and substituting "on or after January 1, 2008, and before July 1, 2022".

SECTION 4. Tennessee Code Annotated, Section 40-35-501(k)(1), is amended by deleting the language "on or after July 1, 2010" and substituting "on or after July 1, 2010, and before July 1, 2022".

SECTION 5. Tennessee Code Annotated, Section 40-35-501(k)(2), is amended by deleting the language "on or after January 1, 2008" and substituting "on or after January 1, 2008, and before July 1, 2022".

SECTION 6. Tennessee Code Annotated, Section 40-35-501(k)(5), is amended by deleting the language "on or after July 1, 2013" and substituting "on or after July 1, 2013, and before July 1, 2022".

SECTION 7. Tennessee Code Annotated, Section 40-35-501, is amended by deleting subdivision (k)(7) and substituting instead the following:

(A) Except as provided in subdivisions (k)(7)(B) and (C), there shall be no release eligibility for a person committing aggravated assault as defined in § 39-13-102, that results in death of another, on or after July 1, 2013, until the person has served seventy-five percent (75%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other provision of law, shall operate to reduce below sixty percent (60%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(B) Notwithstanding subdivision (k)(7)(A), there shall be no release eligibility for a person committing aggravated assault as defined in § 39-13-102(a)(1)(A)(iii) or (a)(1)(B)(iii), on or after July 1, 2022, if the offense involved the use of a deadly weapon, until the person has served one hundred percent (100%) of the sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. The person is permitted to earn credits for which the person is eligible, and the credits may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

(C) Notwithstanding subdivision (k)(7)(A), there shall be no release eligibility for a person committing aggravated assault as defined in § 39-13-102(a)(1)(A)(iv), on or after July 1, 2022, until the person has served one hundred percent (100%) of the sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. The person is permitted to earn credits for which the person is eligible, and the credits may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

SECTION 8. Tennessee Code Annotated, Section 40-35-501(k)(8), is amended by deleting the language "on or after July 1, 2015" and substituting "on or after July 1, 2015, and before July 1, 2022".

SECTION 9. Tennessee Code Annotated, Section 40-35-501(t), is amended by deleting the language "on or after July 1, 2016" and substituting "on or after July 1, 2016, and before July 1, 2022".

SECTION 10. Tennessee Code Annotated, Section 40-35-501(u)(1), is amended by deleting the language "on or after January 1, 2017" and substituting "on or after January 1, 2017, and before July 1, 2022".

SECTION 11. This act takes effect July 1, 2022, the public welfare requiring it, and applies to offenses committed on or after that date.