

Amendment No. 2 to HB2656

Hazlewood
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 new subsections:

(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 pursuant to § 41-21-236 for satisfactory program performance, and those 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) Attempted first degree murder, as defined in § 39-13-202;
- (B) Second degree murder, as defined in § 39-13-210;
- (C) Criminally negligent homicide, as defined in § 39-13-212;
- (D) Vehicular homicide, as defined in § 39-13-213(a)(2);
- (E) Aggravated vehicular homicide, as defined in § 39-13-218;
- (F) Especially aggravated kidnapping, as defined in § 39-13-305;
- (G) Especially aggravated robbery, as defined in § 39-13-403;

(H) Carjacking, as defined in § 39-13-404; and

(I) Especially aggravated burglary, as defined in § 39-13-1004.

(cc)

(1)

(A) 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 (cc)(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; provided, that credits earned by the person pursuant to § 41-21-236 for satisfactory program performance may be used to reduce by up to fifteen percent (15%) the percentage of the sentence imposed by the court that the person must serve before becoming eligible for release on parole but shall not alter the sentence expiration date.

(B) Notwithstanding § 40-28-122(c), § 40-35-506, or another law to the contrary, a person released on parole pursuant to subdivision (cc)(1)(A) for an offense listed in subdivision (cc)(2) may, upon a revocation for violating the conditions of parole, be required to serve a term of incarceration, not to exceed the remainder of the sentence.

(C) A person who commits an offense enumerated in subdivision (cc)(2) is permitted to earn credits for which the person is eligible, and the credits may be used, in addition to the use of program performance credits as provided in subdivision (cc)(1)(A), 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 (cc)(1) applies are:

(A) Aggravated assault, as defined in § 39-13-102(a)(1)(A)(iii) or § 39-13-102(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, as defined in § 39-13-102, if the offense resulted in serious bodily injury to or the death of another;

(D) 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;

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

(F) Voluntary manslaughter, as defined in § 39-13-211;

(G) Vehicular homicide, as defined in § 39-13-213(a)(1), (a)(3), or (a)(4);

(H) Reckless homicide, as defined in § 39-13-215;

(I) Aggravated kidnapping, as defined in § 39-13-304;

(J) Involuntary labor servitude, as defined in § 39-13-307;

(K) Trafficking persons for forced labor or services, as defined in § 39-13-308;

(L) Aggravated robbery, as defined in § 39-13-402;

(M) Aggravated burglary, as defined in § 39-13-1003;

(N) Aggravated arson, as defined in § 39-14-302;

(O) Possessing or using a firearm or antique firearm during commission of or attempt to commit a dangerous felony, as defined in § 39-17-1324; and

(P) 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 (cc), 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 (cc)(2)(P).

(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 (cc)(2)(P). If a relevant offense in a jurisdiction other than this state is not identified as the applicable offense listed in subdivision (cc)(2)(P) 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 (cc)(2)(P).

(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 (cc)(2)(P) 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 (cc)(2)(P);

(ii) Incarcerated for the applicable offense listed in subdivision (cc)(2)(P);

(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 (cc)(2)(P); or

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

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(k)(7), 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 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.