

HOUSE BILL 407

By Pitts

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13 and Title 40, Chapter 11, relative to sexual offenses committed against children.

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

SECTION 1. Tennessee Code Annotated, Section 39-13-504(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) The victim is less than sixteen (16) years of age.

SECTION 2. Tennessee Code Annotated, Section 39-13-506, is amended by deleting the section in its entirety and substituting instead the following:

(a) Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least sixteen (16) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.

(b) Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least sixteen (16) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.

(c) Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least sixteen (16) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

(d)

(1) Mitigated statutory rape is a Class E felony.

(2) Statutory rape is a Class E felony.

(3) Aggravated statutory rape is a Class D felony.

SECTION 3. Tennessee Code Annotated, Section 39-13-522(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than three (3) years of age but less than sixteen (16) years of age.

SECTION 4. Tennessee Code Annotated, Section 39-13-529(e)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) A violation of subsection (b) is a Class E felony; provided, that, if the minor is less than sixteen (16) years of age, the violation is a Class C felony.

SECTION 5. Tennessee Code Annotated, Section 39-13-523(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b)

(1) Notwithstanding any other law to the contrary, any of the following persons convicted in this state of committing an offense on or after July 1, 2009, shall be sentenced to imprisonment for life without possibility of parole:

(A) A child sexual predator;

(B) Child rapist; or

(C) Any person convicted of a violation of § 39-13-531 who has one (1) or more prior convictions for § 39-13-531, § 39-13-522 or any offense classified in subdivision (a)(4).

(2) Notwithstanding any other law to the contrary, a child sexual predator convicted in this state of committing an offense on or after July 1, 2007, but before July 1, 2009, or a child rapist or multiple rapist shall be required to serve

the entire sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn.

(3) A child sexual predator, multiple rapist or a child rapist shall be permitted to earn any 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 6. Tennessee Code Annotated, Section 39-13-523(e), is amended by deleting the subsection in its entirety and substituting instead the following:

(e)

(1) The provisions of this section requiring child sexual predators, child rapists or any person convicted of a violation of § 39-13-531 to be sentenced to imprisonment for life without possibility of parole shall only apply if at least one (1) of the required offenses occurs on or after July 1, 2009.

(2) The provisions of this section requiring child sexual predators to serve the entire sentence imposed by the court shall only apply if at least one (1) of the required offenses occurs on or after July 1, 2007.

(3) The provisions of this section requiring multiple rapists to serve the entire sentence imposed by the court shall only apply if at least one (1) of the required offenses occurs on or after July 1, 1992.

SECTION 7. Tennessee Code Annotated, Section 40-11-105, is amended by adding the following subsection (c):

(c) In no event may the amount of bail be set less than thirty thousand dollars (\$30,000) if the defendant is charged with a violation of any offense in title 39, chapter 13, part 5 and the victim is less than sixteen (16) years of age.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect July 1, 2009, the public welfare requiring it.