

HOUSE BILL 2277

By Curcio

AN ACT to amend Tennessee Code Annotated, Title 8;  
Title 39; Title 40 and Title 41, relative to felony  
offenders.

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

SECTION 1. Tennessee Code Annotated, Section 40-23-104, is amended by deleting subsection (a) and substituting instead the following:

(a) In all cases where any person is convicted of a felony, and sentenced to six (6) years or less, the court, in its discretion, may order the person confined in the county workhouse for the term of the sentence if the county workhouse is certified by the Tennessee corrections institute pursuant to title 41, chapter 8. The trial judge shall have the power to order the removal of the prisoner from the county workhouse to the department of correction whenever, in the judge's opinion, the prisoner is being treated in a brutal or inhuman manner, or when it appears to the judge that the physical condition of the prisoner is such that working on the roads is deleterious to the prisoner's health.

SECTION 2. Tennessee Code Annotated, Section 40-35-104, is amended by deleting subsection (b) and substituting instead the following:

(1) A defendant who is convicted of a felony after January 1, 2021, and who is sentenced to a total sentence of at least one (1) year but not more than three (3) years, may be sentenced to confinement in a local jail or workhouse if the local jail or workhouse is certified by the Tennessee corrections institute pursuant to title 41, chapter 8.

(2) A defendant who is convicted of a felony after January 1, 2021, and who is sentenced to at least one (1) year but not more than six (6) years, may be sentenced to confinement in a local jail or workhouse if the local jail or workhouse is certified by the Tennessee corrections institute pursuant to title 41, chapter 8, and the defendant is being sentenced from a county with a population of not less than four hundred seventy-seven thousand eight hundred eleven (477,811), according to the 1980 federal census or any subsequent federal census.

SECTION 3. Tennessee Code Annotated, Section 40-35-104(c), is amended by deleting subdivisions (4) - (6) and substituting instead the following:

(4) A sentence of periodic confinement that may be served in a local jail or workhouse in conjunction with a term of probation, except that the local jail or workhouse must be certified by the Tennessee corrections institute pursuant to title 41, chapter 8 if the conviction is for a felony offense;

(5) A sentence of continuous confinement to be served in a local jail or workhouse in conjunction with a term of probation, except that the local jail or workhouse must be certified by the Tennessee corrections institute pursuant to title 41, chapter 8 if the conviction is for a felony offense;

(6) A sentence of continuous confinement in a local jail or workhouse, except that the local jail or workhouse must be certified by the Tennessee corrections institute pursuant to title 41, chapter 8 if the conviction is for a felony offense;

SECTION 4. Tennessee Code Annotated, Section 40-35-104, is amended by deleting subdivision (c)(8) and substituting instead the following:

(8) A sentence of continuous confinement in the department of correction if the conviction is for a felony offense unless the defendant is convicted of a violation of § 39-14-103, involving property valued at less than two thousand five hundred dollars (\$2,500), and the defendant is sentenced as an especially mitigated offender as defined in § 40-35-109 or a standard offender as defined in § 40-35-105; or

SECTION 5. Tennessee Code Annotated, Section 40-35-212(a), is amended by deleting the language "unless prohibited by § 40-35-104(b)" and substituting instead "if the conviction is for a felony offense".

SECTION 6. Tennessee Code Annotated, Section 40-35-306(b), is amended by deleting the language ", unless prohibited by § 40-35-104(b),".

SECTION 7. Tennessee Code Annotated, Section 40-35-307(e), is amended by deleting the language ", unless prohibited by § 40-35-104(b),".

SECTION 8. Tennessee Code Annotated, Section 40-35-314, is amended by deleting subsection (a) and substituting instead the following:

(a) All persons convicted of a felony offense and sentenced to confinement, including periodic or split confinement, must be sentenced to the department of correction; except that, if the sentence is eight (8) years or less and combined with periodic or split confinement not to exceed one (1) year, the court may designate the place of confinement as a local jail or workhouse if the local jail or workhouse facility is certified by the Tennessee corrections institute pursuant to title 41, chapter 8. After January 1, 2021, if a court sentences a defendant to a local jail or workhouse when the court was not authorized to do so by this chapter, it shall be deemed that the sentence was a sentence to the department, and the commissioner of correction has the authority to take the defendant into the custody of the department.

SECTION 9. Tennessee Code Annotated, Section 41-8-103, is amended by deleting subdivision (3) and substituting instead the following:

(3) "Certified" means any jail, workhouse, or penal farm facility located in a county with a county criminal justice coordinating committee pursuant to this chapter that has been found to have met the minimum standards for local correctional facilities as provided for in § 41-4-140, offers the same level of services as a Tennessee department

of correction facility, and uses the Static Risk Offender Needs Guide - Revised.

Determination as to whether any facility has met these minimum standards shall be made by the director of the jail inspection division of the Tennessee corrections institute and certified to the county mayor and to the state judicial cost accountant;

SECTION 10. Tennessee Code Annotated, Section 41-8-103(9), is amended by deleting the language "or any other county selected for participation in the program by the commissioner".

SECTION 11. Tennessee Code Annotated, Section 41-8-104(a), is amended by deleting the language "and shall not be required to meet the additional requirements of this section. If a county facility is not certified or provisionally certified, the county must meet the additional requirements of this section to be eligible for the compensation provided in § 41-8-106".

SECTION 12. Tennessee Code Annotated, Section 41-8-104, is amended by deleting subsections (b) - (d) in their entireties.

SECTION 13. Tennessee Code Annotated, Section 41-8-106, is amended by deleting subsection (a) and substituting instead the following:

(a) No county shall house convicted felons unless the county is a participating county pursuant to § 41-8-103.

SECTION 14. Tennessee Code Annotated, Section 41-8-106, is amended by deleting subsection (b) in its entirety.

SECTION 15. Tennessee Code Annotated, Section 41-8-106(c)(1), is amended by deleting the language "Counties shall" and substituting instead "Participating counties shall".

SECTION 16. Tennessee Code Annotated, Section 41-8-106(c)(2), is amended by deleting the subdivision and substituting instead the following:

(2) The commissioner is authorized, without promulgation of rules and regulations, to agree to reimburse a participating county for debt service on debt issued by the participating county in constructing correctional facilities for the purpose of participating in the program pursuant to § 41-8-104. In addition to principal, interest, and redemption premiums, debt service may include other necessary items or costs reasonably related to the issuance of such participating county debt. Upon entering an agreement, the department is authorized to reimburse the participating county for one hundred percent (100%) of debt service, regardless of whether the participating county is actually housing inmates under a contract, and until a contract is terminated. The commissioner may not, following execution of any such agreement, amend existing rules and regulations or promulgate new rules and regulations that will impair the state's obligation to reimburse debt service as provided in an agreement. Any obligation for the reimbursement of debt service shall be a contractual obligation of the state.

SECTION 17. Tennessee Code Annotated, Section 41-8-106(d), is amended by deleting the language "county" wherever it appears and substituting instead the language "participating county".

SECTION 18. Tennessee Code Annotated, Section 41-8-106(e), is amended by deleting the language "counties" wherever it appears and substituting instead the language "participating counties".

SECTION 19. Tennessee Code Annotated, Section 41-8-106(f), is amended by deleting the language "counties" and substituting instead the language "participating counties".

SECTION 20. Tennessee Code Annotated, Section 41-8-106(g)(1), is amended by deleting the language "county" and substituting the language "participating county" and by deleting the language "subsection (b)" and substituting instead the language "§ 41-8-104".

SECTION 21. Tennessee Code Annotated, Section 41-8-106(g)(2), is amended by deleting the subdivision in its entirety.

SECTION 22. Tennessee Code Annotated, Section 41-8-106(h), is amended by deleting the language "county" wherever it appears and substituting instead the language "participating county".

SECTION 23. Tennessee Code Annotated, Title 41, Chapter 8, is amended by adding the following language as a new section:

(a) Each participating county shall create a county criminal justice coordinating committee, which must be composed of the following members:

- (1) The county mayor;
- (2) One (1) member of the county commission chosen by majority vote of the county commission;
- (3) The county finance director;
- (4) The county sheriff;
- (5) The police chiefs within the county;
- (6) The district attorney general for the judicial district of the county;
- (7) The public defender for the judicial district of the county;
- (8) The head of probation for the county;
- (9) One (1) general sessions court judge from the county chosen by majority vote of the county commission; and
- (10) One (1) circuit court judge from the judicial district of the county chosen by majority vote of the county commission.

(b) It is the duty of the county criminal justice coordinating committee to meet and discuss the status of the criminal justice system in the county, to coordinate interagency efforts to improve public safety, and to submit at least one (1) report

annually to the county legislative body on the status of the county's criminal justice system and recommendations for improvement.

SECTION 24. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 25. This act shall take effect January 1, 2021, the public welfare requiring it, and applies to all persons convicted of a felony and sentenced after that date, and does not impair any contracts entered into prior to that date.