



State of Tennessee

PUBLIC CHAPTER NO. 988

SENATE BILL NO. 2248

By Mr. Speaker McNally, Lundberg, Kelsey

Substituted for: House Bill No. 2656

By Mr. Speaker Cameron Sexton, Lamberth, Hulsey, Griffey, Sherrell, Jerry Sexton, Hawk, Russell, Howell, Gillespie, Gant, Ogles, Todd, Garrett, Williams, Baum, Crawford, Whitson, Campbell, Moody, Zachary, Warner, Leatherwood, Haston, Hazlewood, Eldridge, Rudder, Helton, Littleton, Cepicky, Doggett, Carr, Reedy, Mannis, Powers, Alexander

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 40, relative to sentencing.

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

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) Vehicular homicide, as defined in § 39-13-213(a)(2);
- (D) Aggravated vehicular homicide, as defined in § 39-13-218;
- (E) Especially aggravated kidnapping, as defined in § 39-13-305;
- (F) Especially aggravated robbery, as defined in § 39-13-403;
- (G) Carjacking, as defined in § 39-13-404; and
- (H) 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)(1), (b)(2), or (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;

(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; and

(Q) Criminally negligent homicide, as defined in § 39-13-212.

(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".

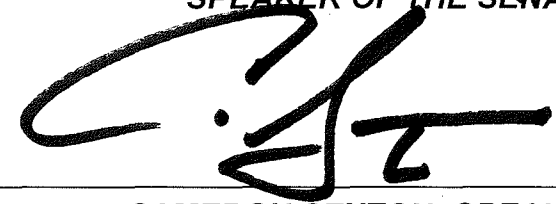
SECTION 11. This act takes effect July 1, 2022, the public welfare requiring it, and applies to offenses committed on or after that date.

SENATE BILL NO. 2248

PASSED: April 21, 2022



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this _____ day of _____ 2022

BILL LEE, GOVERNOR



TENNESSEE SENATE

RUSSELL A. HUMPHREY
CHIEF CLERK

RANDY McNALLY
LT. GOVERNOR
SPEAKER OF THE SENATE

May 6, 2022

The Honorable Tre Hargett
Secretary of State
State Capitol
Nashville, TN 37243-1102

Dear Secretary Hargett:

On April 21, 2022, the Senate and the House of Representatives of the One Hundred Twelfth General Assembly passed Senate Bill No. 2248 by constitutional majorities. Thereupon, the Bill was transmitted to and received by the Governor on April 25, 2022. The Governor returned the Bill on May 5, 2022, without his signature, along with the enclosed correspondence to the Speakers of the Senate and the House of Representatives informing them of his decision.

As the Governor did not return Senate Bill No. 2248 with his disapproval within ten (10) calendar days, excluding Sundays, after he received the Bill, Senate Bill No. 2248 becomes law without the Governor's signature pursuant to Article III, Section 18 of the Constitution of the State of Tennessee.

With best wishes, I am,

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jordan G. Young", written over a large, faint circular stamp.

Jordan G. Young
Chief Engrossing Clerk



BILL LEE

GOVERNOR
STATE OF TENNESSEE

May 5, 2022

The Honorable Randy McNally
Lieutenant Governor
425 Rep. John Lewis Way N., Suite 700
Nashville, TN 37243

The Honorable Cameron Sexton
Speaker, Tennessee House of Representatives
425 Rep. John Lewis Way N., Suite 600
Nashville, TN 37243

Dear Lieutenant Governor McNally and Speaker Sexton:

I am writing to inform you that HB 2656 / SB 2248 will become law without my signature. I believe we share a mutual desire to protect victims and prevent further victims of crime. This partnership is why we three joined together in 2019 as co-signatories on the Criminal Justice Investment Task Force's mission to "use our state's data to move toward a criminal justice system that focuses resources on evidence-based recidivism reduction and crime-prevention strategies that increase public safety and improve outcomes for all Tennesseans." Our efforts led to widespread support in the General Assembly for the Alternatives to Incarceration Act and the Re-entry Success Act.

My concern with HB 2656 / SB 2248 is that data does not support the basic premise of the legislation. Similar legislation has been enacted before and resulted in significant operational and financial strain, with no reduction in crime. Widespread evidence suggests that this policy will result in more victims, higher recidivism, increased crime, and prison overcrowding, all with an increased cost to taxpayers. For these reasons, I have chosen not to sign the bill.

Because we all share the same desired outcomes, I am hopeful we can work together to find the best path forward for public safety in Tennessee.

Respectfully,

A handwritten signature in cursive script that reads "Bill Lee".

Bill Lee
Governor