

SENATE BILL 2532

By Burks

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

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

SECTION 1. Tennessee Code Annotated, Section 39-13-107(c), is amended by inserting the word "lawful" before the word "act" and inserting the word "lawful" before the word "omission".

SECTION 2. Tennessee Code Annotated, Section 39-13-107(c), is further amended by designating the existing language as subdivision (c)(1) and by adding the following new subdivisions:

(2) Nothing in this section shall preclude prosecution of a woman for an offense under this part for the illegal use of a narcotic drug taken while pregnant, which harms another, if the victim is addicted to, dependent upon, or harmed by the narcotic drug and the addiction; dependency or harm is a result of her illegal use of a narcotic drug taken while pregnant.

(3) It is an affirmative defense to a prosecution permitted by this section that the woman actively enrolled in a long term addiction recovery program before the child is born, remained in the program after delivery, and successfully completed the program, regardless of whether the child was born addicted to, dependent upon, or harmed by the narcotic drug. For purposes of this section, "long-term addiction recovery program" shall mean an addiction program that is six (6) months or longer in duration. Alternatively, any person charged under the provisions of this section shall also be entitled, if otherwise qualified, to judicial diversion or drug court or both. These alternatives shall

only be available for a first offense and shall not be available for second or subsequent violations.

SECTION 3. Tennessee Code Annotated, Section 39-13-214(c), is amended by inserting the word "lawful" before the word "act" and inserting the word "lawful" before the word "omission".

SECTION 4. Tennessee Code Annotated, Section 39-13-214(c), is further amended by designating the existing language as subdivision (c)(1) and by adding the following new subdivisions:

(2) Nothing in this section shall preclude prosecution of a woman for an offense under this part for the illegal use of a narcotic drug taken while pregnant, which harms another, if the victim is addicted to, dependent upon, or harmed by the narcotic drug and the addiction, dependency or harm is a result of the woman's illegal use of a narcotic drug taken while pregnant.

(3) It is an affirmative defense to a prosecution permitted by this section that the woman actively enrolled in a long term addiction recovery program before the child is born, remained in the program after delivery, and successfully completed the program, regardless of whether the child was born addicted to, dependent upon, or harmed by the narcotic drug. For purposes of this section, "long-term addiction recovery program" shall mean an addiction program that is six (6) months or longer in duration. Alternatively, any person charged under the provisions of this section shall also be entitled, if otherwise qualified, to judicial diversion or drug court or both. These alternatives shall only be available for a first offense and shall not be available for second or subsequent violations.

SECTION 5. 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 6. This act shall take effect July 1, 2014, the public welfare requiring it.