

HOUSE BILL 3516

By DeBerry J

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 8; Title 9; Title 10; Title 16; Title 33; Title 34; Title 37; Title 38; Title 39; Title 40; Title 41; Title 55 and Title 71, relative to parole.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 35, Part 5, is amended by adding the following language as a new section to be designated as § 40-35-506:

Section 40-35-506.

(a) Any person committing an offense on or after July 1, 2010, shall not be assigned a release eligibility date and shall not be eligible for release on parole until service of one hundred percent (100%) of the sentence imposed by the court for the offense.

(b) Any person who receives parole for an offense committed before July 1, 2010, but subsequently causes such parole to be revoked by committing an offense on or after July 1, 2010, shall not be assigned a release eligibility date and shall not be eligible for release on parole until service of one hundred percent (100%) of the sentence imposed by the court for such subsequent offense.

SECTION 2. Tennessee Code Annotated, Section 37-1-134(h), is amended by adding the language "; provided that such parole complies with the provisions of § 40-35-506" after the language "Any child sentenced by a committing court pursuant to this section shall, for the purpose of parole, be treated as if such child were an adult".

SECTION 3. Tennessee Code Annotated, Section 39-13-202(c), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(c) A person convicted of first degree murder shall be punished by:

(1) Death; or

(2) Imprisonment for life.

SECTION 4. Tennessee Code Annotated, Section 39-13-203(d), is amended by deleting the language "without possibility of parole" wherever it appears, and is further amended by deleting the language "or imprisonment for life".

SECTION 5. Tennessee Code Annotated, Section 39-13-204(a), is amended by deleting from the first sentence the language ", to imprisonment for life without possibility of parole,".

SECTION 6. Tennessee Code Annotated, Section 39-13-204(e)(1), is amended by deleting from the fourth sentence the language "without the possibility of parole".

SECTION 7. Tennessee Code Annotated, Section 39-13-204(e)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(2) The trial judge shall provide the jury two (2) separate verdict forms, as specified by subsection (f) and subdivision (g)(2)(B). The jury shall be instructed that a defendant who receives a sentence of imprisonment for life shall not be eligible for release on parole and must serve one hundred percent (100%) of the sentence imposed by the court in compliance with § 40-35-506.

SECTION 8. Tennessee Code Annotated, Section 39-13-204(f), is amended by deleting subdivision (2).

SECTION 9. Tennessee Code Annotated, Section 39-13-204(h), is amended by deleting the language "shall instruct the jury that in further deliberations, the jury shall only consider the sentences of imprisonment for life without possibility of parole and imprisonment for life. If, after further deliberations, the jury still cannot agree as to sentence, the trial judge".

SECTION 10. Tennessee Code Annotated, Section 39-13-204(i), is amended by deleting the language "without possibility of parole".

SECTION 11. Tennessee Code Annotated, Section 39-13-204(k), is amended by deleting from the second sentence the language ", imprisonment for life without possibility of parole" both times it appears.

SECTION 12. Tennessee Code Annotated, Section 39-13-206(d)(2), is amended by deleting the language "imprisonment for life without possibility of parole or".

SECTION 13. Tennessee Code Annotated, Section 39-13-206(e), is amended by deleting the language "imprisonment for life without possibility of parole or".

SECTION 14. Tennessee Code Annotated, Section 39-13-207(a), is amended by deleting from the first sentence the language "but is seeking imprisonment for life without possibility of parole" and by substituting instead the language "but is seeking imprisonment for life", and is further amended by deleting the language "imprisonment for life without possibility of parole or".

SECTION 15. Tennessee Code Annotated, Section 39-13-207(b), is amended by deleting the subsection in its entirety.

SECTION 16. Tennessee Code Annotated, Section 39-13-207(c), is amended by deleting the subsection in its entirety.

SECTION 17. Tennessee Code Annotated, Section 39-13-207(e), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(e) The jury shall then return its verdict to the judge upon a form provided by the court, which may appear substantially as follows:

PUNISHMENT OF IMPRISONMENT FOR LIFE

We, the jury, unanimously determine that no statutory aggravating circumstance has been proven by the state beyond a reasonable doubt.

We, the jury, therefore find that the sentence shall be imprisonment for life.

/s/ _____

Jury Foreperson

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

/s/ _____

Juror

SECTION 18. Tennessee Code Annotated, Section 39-13-207(g), is amended by deleting the language "without possibility of parole" from the first and third sentences.

SECTION 19. Tennessee Code Annotated, Section 39-13-208, is amended by deleting the language "without possibility of parole" wherever it appears in subsections (a), (b), and (d).

SECTION 20. Tennessee Code Annotated, Section 39-13-706, is amended by adding the following language as a new subsection (c):

(c) Each sex offender sentenced by the court for an offense committed on or after July 1, 2010, shall not be eligible for release on parole and must serve one hundred percent (100%) of the sentence imposed by the court pursuant to the provisions of § 40-35-506.

SECTION 21. Tennessee Code Annotated, Section 39-17-432(d), is amended by deleting the language "prior to service of the entire minimum sentence for the defendant's

appropriate range of sentence." and by substituting instead the following language "prior to service of one hundred percent (100%) of the sentence imposed by the court."

SECTION 22. Tennessee Code Annotated, Section 40-20-110, is amended by adding the following language as a new subsection (c):

(c) If a person commits an offense on or after July 1, 2010, then the provisions of § 40-35-506 shall govern parole eligibility in relation to such offense.

SECTION 23. Tennessee Code Annotated, Section 40-22-109, is amended by designating the current language as a new subsection (a), and is further amended by adding the following language as a new subsection (b):

(b) The board of probation and parole shall not release on parole any person who committed an offense on or after July 1, 2010 for such offense as provided in § 40-35-506.

SECTION 24. Tennessee Code Annotated, Section 40-28-102(5), is amended by adding the language "provided that such parole complies with the provisions of § 40-35-506;" after the language "has released the prisoner to answer the warrant of the court or authority;".

SECTION 25. Tennessee Code Annotated, Section 40-28-105, is amended by adding the following language as a new, appropriately designated subsection:

() The board shall not release on parole any person who committed an offense on or after July 1, 2010 for such offense as provided in § 40-35-506.

SECTION 26. Tennessee Code Annotated, Section 40-28-115, is amended by adding the following language as a new, appropriately designated subsection:

() If a person commits an offense on or after July 1, 2010, then the provisions of § 40-35-506 shall govern such person's parole eligibility for such offense.

SECTION 27. Tennessee Code Annotated, Section 40-28-116, is amended by adding the following language as a new, appropriately designated subsection:

() The board shall not release on parole any person who committed an offense on or after July 1, 2010 for such offense as provided in § 40-35-506.

SECTION 28. Tennessee Code Annotated, Section 40-28-117, is amended by adding the following language as a new, appropriately designated subsection:

() If a person commits an offense on or after July 1, 2010, then the provisions of § 40-35-506 shall govern such person's parole eligibility for such offense.

SECTION 29. Tennessee Code Annotated, Section 40-28-123, is amended by adding the language "Notwithstanding the provisions of § 40-35-506," before the language "Any prisoner who is convicted in this state" in the first sentence of subsection (a).

SECTION 30. Tennessee Code Annotated, Section 40-35-117(c), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(c) Except as provided in § 40-35-506, for all persons who committed crimes prior to July 1, 1982, prior law shall apply and remain in full force and effect in every respect, including, but not limited to, sentencing, parole and probation.

SECTION 31. Tennessee Code Annotated, Section 40-35-120(g), is amended by deleting the language "without possibility of parole".

SECTION 32. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following language as a new, appropriately designated subsection:

() There shall be no release eligibility for a defendant who commits an offense on or after July 1, 2010 as provided in § 40-35-506.

SECTION 33. Tennessee Code Annotated, Section 40-35-503, is amended by adding the following language as a new, appropriately designated subsection:

() As provided in § 40-35-506, the board shall not release on parole any person for an offense committed on or after July 1, 2010.

SECTION 34. Tennessee Code Annotated, Section 40-35-504, is amended by adding the following language as a new, appropriately designated subsection:

() A defendant who commits an offense on or after July 1, 2010 shall not be eligible for release on parole pursuant to the provisions of § 40-35-506.

SECTION 35. Tennessee Code Annotated, Section 41-21-235, is amended by adding the following language as a new, appropriately designated subsection:

() The provisions of this section shall not apply to any person who commits an offense on or after July 1, 2010 as provided in § 40-35-506.

SECTION 36. The commissioner of corrections and the board of probation and parole are authorized to promulgate rules and regulations consistent with the provisions of this act and in compliance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 37. 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 38. This act shall take effect July 1, 2010, the public welfare requiring it.