

HOUSE BILL 2077

By Carr

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 55, relative to criminal justice.

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 12, Part 1, is amended by adding the following as a new section:

A person commits the offense of instigation if the person intentionally prompts another person to commit an offense. It is not necessary to prove that an offense would not have been perpetrated without the involvement of the accused, instead it is sufficient to demonstrate that the instigation was a factor substantially contributing to the conduct of another person committing the offense.

SECTION 2. Tennessee Code Annotated, Section 39-14-405, is amended by adding the following language as a new subsection (b) and redesignating the existing subsections accordingly:

(b) Following two (2) verbal notices that a person is trespassing, a private person may arrest the trespasser if the requirements under § 40-7-109 are met.

SECTION 3. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

(a) A person who commits the offense of instigation must be sentenced at:

(1) Twenty-five percent (25%) of the sentence for the underlying misdemeanor offense; and

(2) Thirty-three percent (33%) of the sentence for the underlying felony offense.

(b) The court must add the appropriate number of points to the person's driver license for any misdemeanor moving or non-moving traffic violations involved with the charge or charges of instigation.

(c) A person's sentence must increase by twenty percent (20%) for each two (2) additional convictions for instigation following the initial conviction.

(d) The person's sentence must increase by sixty percent (60%) per conviction after the sixth instigation conviction.

(e) Judicial diversion is only authorized for an instigation offense involving an underlying felony.

(f) A plea deal has no effect on the calculation of prior instigation offenses.

SECTION 4. Tennessee Code Annotated, Section 40-6-204, is amended by adding the following as a new subsection:

(c) The written examination must include an affidavit for abeyance to allow time for an affiant or affiants to establish probable cause that a person committed the offense of instigation under Section 1 in relation to the initial affidavit.

SECTION 5. This act takes effect July 1, 2024, the public welfare requiring it.