

SENATE BILL 407

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 28, Part 1 and Title 40, Chapter 35, Part 5, relative to parole hearings.

WHEREAS, Article I, Section 35(b), of the Constitution of Tennessee guarantees the right of victims to be free from intimidation, harassment, and abuse throughout the criminal justice system; and

WHEREAS, the parole stage is clearly a part of the criminal justice system, and the possibility of an inmate with a lengthy sentence using the parole process as a tool for unconstitutionally intimidating, harassing, abusing, and alarming a victim is very real and should be addressed the same as at the trial stage; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Section 40-28-115, is amended by adding the following new subdivisions to subsection (h):

(3)

(A) The department of correction shall not certify an inmate for a parole grant hearing, other than the initial statutory grant hearing, if the inmate:

(i) Has not submitted and fulfilled all requirements of the inmate's parole plan that can be satisfied while incarcerated;

(ii) Is a sex offender subject to § 40-28-116(a)(2) and the report of the psychologist or psychiatrist following the examination of the inmate is not available to the board prior to the hearing; or

(iii) Has not completed any other disciplinary, educational, or custody requirement imposed by the department that an inmate must

complete by the time a parole or custodial parole grant hearing is requested.

(B) The board may continue a parole grant hearing if any information the board deems necessary for an informed decision has not been transmitted by the time of the hearing.

(C) This subdivision (h)(3) shall also apply to an inmate serving a consecutive sentence who is seeking custodial parole from one (1) sentence to another sentence.

SECTION 2. Tennessee Code Annotated, Section 40-35-503, is amended by deleting the last sentence of subsection (g) and by adding the following new subsections:

(h) The board shall have the right to deny parole to an inmate who:

(1) Has made no attempt to improve educational, vocational, or employment skills in the manner described in subsection (g);

(2) Has more than one (1) disciplinary infraction while incarcerated that resulted in bodily injury or threatened bodily injury; or

(3) Is using the parole hearing process to intimidate, harass or abuse the victim in violation of Article I, Section 35(b) of the Constitution of Tennessee.

(i) If the board denies an inmate's release on parole or custodial parole based in whole or in part on the board's reasonable belief that the inmate's conduct violates subdivision (h)(3), the board may extend the date on which the inmate is next eligible for a parole or custodial parole hearing to a longer period of time than if the inmate is denied for other reasons.

SECTION 3. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to all parole hearings, except initial grant hearings, and custodial parole hearings certified by the department of correction on or after that date.