

SENATE BILL 985

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 40
and Title 41, relative to community-based
sentencing alternatives for primary caregivers.

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

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

(a) As used in this section:

(1) "Dependent child" means a person who is less than eighteen (18)
years of age;

(2) "Nonviolent offense" means a crime punishable by imprisonment,
except a crime punishable by imprisonment that:

(A) Has as an element the use, attempted use, or threatened use
of physical force or a deadly weapon against another;

(B) Is burglary, pursuant to § 39-14-402; aggravated burglary,
pursuant to § 39-14-403; especially aggravated burglary, pursuant to §
39-14-404; extortion, pursuant to § 39-14-112; arson, pursuant to § 39-
14-301; aggravated arson, pursuant to § 39-14-302; kidnapping, pursuant
to § 39-13-303; aggravated kidnapping, pursuant to § 39-13-304; or
especially aggravated kidnapping, pursuant to § 39-13-305;

(C) Involves the use of explosives; or

(D) Otherwise involves conduct that presents a serious risk of
physical injury to another; and

(3) "Primary caretaker of a dependent child" means a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to the parent's incarceration; or a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child. A parent who, in the best interest of the child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the definition of "primary caretaker of a dependent child."

(b) Notwithstanding any law to the contrary, prior to the sentencing of a person convicted of an offense, the sentencing court shall determine if the offense was a nonviolent offense and if the convicted person is a primary caretaker of a dependent child. If the court determines that a person convicted of a nonviolent offense is a primary caretaker of a dependent child, the court may impose an individually assessed sentence, without imprisonment, based on community rehabilitation, with a focus on parent-child unity and support. In imposing the individually assessed sentence, the court may require the person to meet certain conditions that the court considers appropriate, including, but not limited to:

- (1) Drug and alcohol treatment;
- (2) Domestic violence education and prevention;
- (3) Physical and sexual abuse counseling;
- (4) Anger management;
- (5) Vocational and educational services;
- (6) Job training and placement;
- (7) Affordable and safe housing assistance;
- (8) Financial literacy;
- (9) Parenting classes;
- (10) Family and individual counseling; and

(11) Family case management services.

(c)

(1) The court may require a person serving an individually assessed sentence pursuant to this section to appear in court any time during the person's sentence to evaluate the person's progress in treatment or rehabilitation, or to determine if the person has violated any condition of the sentence.

(2) Upon an appearance in court made pursuant to subdivision (c)(1), the court may:

(A) Modify the conditions of a sentence imposed pursuant to this section;

(B) Decrease the duration of a sentence imposed pursuant to this section based on the person's successful advancement; or

(C) Sanction the person for each detected violation of a condition of the sentence imposed pursuant to this section, including, but not limited to, requiring the person to serve a term of confinement within the range of the offense for which the person was originally convicted, notwithstanding the determination made pursuant to subsection (b) that the person is a primary caretaker of a dependent child.

SECTION 2. Tennessee Code Annotated, Section 40-35-103, is amended by adding the following as a new subdivision (7):

(7) Available community-based alternatives to confinement and the benefits that imposing such alternatives may provide to the community should be considered when the offense is nonviolent and the defendant is the primary caregiver of a dependent child.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it.