

SENATE BILL 1692

By Burks

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 2, relative to imposition of the
death penalty against certain defendants.

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 2, is amended by
adding the following new section:

39-13-219.

(a) For purposes of this section, unless the context otherwise requires:

(1) "Delusions" means fixed, clearly false beliefs;

(2) "Hallucinations" means clearly erroneous perceptions of reality;

and

(3) "Severe and persistent mental illness" means an individual:

(A) Has a psychiatric diagnosis or symptoms consistent
with a psychiatric diagnosis as specified in the latest edition of the
American Psychiatric Association Diagnostic and Statistical
Manual;

(B) Has delusions, hallucinations, extremely disorganized
thinking or other significant disruptions of consciousness, memory,
and perception that are not attributable to the acute effects of
alcohol or other drugs; and

(C) Has a documented medical history of the items listed
in subdivisions (a)(3)(A) and (a)(3)(B).

(b) Notwithstanding any law to the contrary, no defendant with a severe and persistent mental illness at the time of committing the offense of murder in first degree shall receive a sentence of death.

(c) The burden of producing evidence to demonstrate a severe and persistent mental illness and persuading the court that the defendant, at the time of the offense, suffered from such an illness shall be upon the defendant to prove by a preponderance of the evidence. If the defendant raises the issue, the determination of whether the defendant suffered from a severe and persistent mental illness at the time of the offense of first degree murder shall be made by the court at a hearing prior to adjudication of the charges.

(d) If the court determines that the defendant was a person with severe and persistent mental illness at the time of the offense, the punishment, upon conviction of first degree murder, shall be either life imprisonment or life imprisonment without possibility of parole. Section 39-13-207 shall govern the sentencing proceeding.

(e) If the court determines that the defendant is not a person with severe and persistent mental illness, the defendant shall still be entitled to offer evidence of insanity at trial and, if convicted of capital murder, evidence of diminished mental capacity or mental illness at trial and as a mitigating circumstance pursuant to § 39-13-204(j)(8).

(f) The determination by the trier of fact that the defendant does not have a severe and persistent mental illness shall not be appealable by interlocutory appeal, but may be a basis of appeal by either the state or defendant following the sentencing stage of the trial.

(g) This section shall not be construed as retroactive.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.