

HOUSE BILL 86

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 49, to enact the "Crime-Free
School Zone Act."

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

SECTION 1. Section 3 of this act shall be known and may be cited as the "Crime-Free School Zone Act".

SECTION 2. Tennessee Code Annotated, Section 39-17-432, is amended by deleting the section in its entirety.

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

40-35-123.

(a) It is the intent of this section to create crime-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal activities. The enhanced and mandatory minimum sentences required by this section for offenses occurring in a crime-free zone are necessary to serve as a deterrent to such unacceptable conduct.

(b)

(1) A violation of § 39-17-417, or a conspiracy to violate the section, that occurs on a public school bus, within one thousand feet (1,000') of the real property that comprises a designated public school bus stop, the grounds or facilities of any school or within one thousand feet (1,000') of the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, or public library, public recreational center

or public park shall be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) for such violation.

(2) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, public recreational center or public park shall not be subject to additional incarceration as a result of this subsection (b) but shall be subject to the additional fines imposed by this section.

(3) The commission of any offense specified in subdivision (b)(4), or a conspiracy to commit any such offense, that occurs on a public school bus, within one thousand feet (1,000') of the real property that comprises a designated public school bus stop, the grounds or facilities of any school or within one thousand feet (1,000') of the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, public recreational center or public park shall, in addition to any other penalty imposed by this section, be subject to the following:

(A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars (\$10,000);

(B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars (\$20,000);

(C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars (\$40,000);

(D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars (\$60,000); and

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).

(4) The offenses to which subdivision (b)(3) is applicable are:

(A) A violation of §§ 39-13-101, 39-13-102, 39-13-103, 39-13-106, 39-13-110, 39-13-113, 39-13-114, 39-13-401, 39-13-402, 39-13-403 or 39-17-417;

(B) Any sexual offense as prohibited by title 39, chapter 13, part 5;

(C) Any offense involving a firearm prohibited by title 39, chapter 17, part 13, if this subsection (b) is not already an essential element of the offense;

(D) Any felony involving a deadly weapon as defined by § 39-11-106(a); and

(E) Carjacking as prohibited by § 39-13-404.

(c) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subdivision (b)(1) shall be required to serve at least the entire minimum sentence for the defendant's appropriate range of sentence. Any sentence reduction credits for which the defendant may be eligible or which the defendant may earn shall not operate to permit or allow the release of the defendant prior to service of the entire minimum sentence.

(d) Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole, shall not apply to or authorize the release of a defendant sentenced for a violation of subdivision (b)(1) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(e) Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of probation and parole the authority to release or cause the release of a

defendant sentenced for a violation of subdivision (b)(1) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(f) Nothing in this section shall be construed as prohibiting the judge from sentencing a defendant who violated subdivision (b)(1) to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

(g) The sentence of a defendant who, as the result of a single act, violates both subdivision (b)(1) and § 39-17-417(k), may only be enhanced one (1) time under those sections for each act. The state must elect under which section it intends to seek enhancement of the defendant's sentence and shall provide notice of the election pursuant to § 40-35-202.

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to prohibited conduct occurring on or after the effective date of this act.