

HOUSE BILL 693

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to criminal procedure.

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

SECTION 1. Tennessee Code Annotated, Section 40-15-105(a)(1)(B)(i)(c), is amended by deleting the language “not a Class A or Class B felony or a Class C felony as defined” and substituting instead the following:

not a Class A, Class B or Class C felony or a Class D felony as defined

SECTION 2. Tennessee Code Annotated, Section 40-15-105(a)(1)(B)(iii), is amended by deleting the existing language in its entirety and substituting instead the following:

(iii) As used in subdivision (a)(1)(i)(c), “Class D felony” means conduct which involves force, violence, or serious bodily injury to any victim.

SECTION 3. Tennessee Code Annotated, Section 40-15-105(b)(3), by deleting current provision in its entirety and substituting the following:

(b)

(3) The decision whether to grant diversion rests within the discretion of the prosecuting attorney. To deny diversion to a qualified defendant, the prosecuting attorney shall consider all favorable evidence proffered by the defendant and shall give a reason or reasons supporting the denial. The defendant may petition for a writ of certiorari to the trial court for an abuse of prosecutorial discretion; provided, however, the prosecutor shall not be deemed to have abused the prosecutor's discretion unless the reason supporting denial of diversion is contrary to manifest public interest. If the trial court finds an abuse of discretion in failing to divert, the court may order the prosecuting attorney to

place the defendant in a diversion status under such terms and conditions as the trial court may order. The prosecuting attorney may request the trial court to grant an interlocutory appeal by permission to review that decision in the appellate courts pursuant to Rule 9, Tennessee Rules of Appellate Procedure. A defendant's diversion under such terms and circumstances may be terminated as provided by subsection (d) and shall be subject to all other provisions of this section.

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it.