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Senate Bill _____
By

House No. HB1220
By Ritchie, II

AN ACT to amend Tennessee Code Annotated, Section 40-35-313; and to repeal Tennessee Code Annotated, Title 40, Chapter 32.

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

SECTION 1. Tennessee Code Annotated, Section 40-35-313, is amended by deleting the section in its entirety and by substituting instead the following:

(a) If a person who has not previously been convicted or placed on probation as a result of pleading guilty or being found guilty of a misdemeanor or felony pleads guilty or is found guilty of a misdemeanor, or a Class C or lesser felony, except a charge under Tennessee Code Annotated, Sections 55-10-401, 55-10-414, 39-13-106 or 39-13-213, the court may, in its sole discretion, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him/her on probation upon such reasonable conditions as it may require and for a period of time not less than the period of the maximum sentence for the misdemeanor of which he/she has been found guilty, or not more than the period of the maximum sentence of the felony of which he/she has been found guilty.

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(b) The court shall require the defendant to execute a written statement under oath that he/she possesses the above-stated eligibility requirements. The state of Tennessee shall maintain a registry upon which each person granted relief under this section shall be listed. The clerks of the several courts shall furnish to the state registry the name, date of birth, social security number and driver license number of each person granted relief under this section in the respective courts. This registry shall be available to law enforcement personnel including the attorney general and staff, clerks and judges of courts having criminal jurisdiction.

(c) The court may require the defendant to pay a sum not to exceed thirty-five dollars (\$35.00) per month for his/her supervision to the clerk of the court or the agency providing such supervision and the costs of any specialized treatment or services reasonably related to efforts for rehabilitation or reformation. If paid to the clerk, the clerk shall be entitled to retain a fee of five percent (5%) of the proceeds for the services of receipting, accounting and disbursing. The court shall prescribe such reasonable conditions of probation as may relate to the purpose to be served. The court shall consider each defendant's financial condition and potential financial conditions in prescribing payments of costs, supervision and treatment fees.

(d) If, upon due notice and hearing or waiver thereof, the court finds that defendant has violated probation, the court may proceed to sentence the defendant within the limits authorized for the offense. If the defendant successfully completes probation without violation, the court shall discharge the defendant and dismiss the charge.

SECTION 2. Tennessee Code Annotated, Sections 40-32-101 through 40-32-104, inclusive, are hereby repealed.

SECTION 3. This act shall take effect July 1, 1994, the public welfare requiring it.