



# State of Tennessee

## PUBLIC CHAPTER NO. 357

### HOUSE BILL NO. 196

By Representatives McCormick, Rich, Hardaway, Dean, Sexton, Evans, Eldridge, Watson, McManus, Hall, Kane, Harry Brooks, Shipley, Kevin Brooks, Haynes, Ryan Williams, Todd

Substituted for: Senate Bill No. 202

By Senators Norris, Tate, Finney, Burks

AN ACT to amend Tennessee Code Annotated, Section 40-35-121, relative to criminal gang offenses.

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

SECTION 1. Tennessee Code Annotated, Section 40-35-121(a)(3), is amended by deleting the subdivision in its entirety and substituting the following:

(3) "Criminal gang offense" means:

(A) A criminal offense committed prior to July 1, 2013 that:

(i) During the perpetration of which the defendant knowingly causes, or threatens to cause, death or bodily injury to another person or persons and specifically includes rape of a child, aggravated rape and rape; or

(ii) Results, or was intended to result, in the defendant's receiving income, benefit, property, money or anything of value from the commission of any aggravated burglary, or from the illegal sale, delivery, or manufacture of a controlled substance, controlled substance analogue, or firearm; or

(B) The commission or attempted commission, facilitation of, solicitation of, or conspiracy to commit any of the following offenses on or after July 1, 2013:

(i) First degree murder, as defined in § 39-13-202;

(ii) Second degree murder, as defined in § 39-13-210;

(iii) Voluntary manslaughter, as defined in § 39-13-211;

(iv) Assault, as defined in § 39-13-101;

(v) Aggravated assault, as defined in § 39-13-102;

(vi) Kidnapping, as defined in § 39-13-303;

(vii) Aggravated kidnapping, as defined in § 39-13-304;

(viii) Especially aggravated kidnapping, as defined in § 39-13-305;

(ix) Robbery, as defined in § 39-13-401;

(x) Aggravated robbery, as defined in § 39-13-402;

(xi) Especially aggravated robbery, as defined in § 39-13-403;

- (xii) Carjacking, as defined in § 39-13-404;
- (xiii) Rape, as defined in § 39-13-503;
- (xiv) Aggravated rape, as defined in § 39-13-502;
- (xv) Rape of a child, as defined in § 39-13-522;
- (xvi) Aggravated burglary, as defined in § 39-14-403;
- (xvii) Especially aggravated burglary, as defined in § 39-14-404;
- (xviii) Aggravated criminal trespass, as defined in § 39-14-406;
- (xix) Coercion of witness, as defined in § 39-16-507;
- (xx) Retaliation for past action, as defined in § 39-16-510;
- (xxi) Riot, as defined in § 39-17-302;
- (xxii) Aggravated riot, as defined in § 39-17-303;
- (xxiii) Inciting to riot, as defined in § 39-17-304;
- (xxiv) The illegal sale, delivery or manufacture of a controlled substance or controlled substance analogue, as defined in §§ 39-17-417 and 39-17-454;
- (xxv) Possession of a controlled substance or controlled substance analogue with intent to sell, deliver, or manufacture, as defined in § 39-17-417(a)(4) and § 39-17-454;
- (xxvi) Unlawful carrying or possession of a weapon, as defined in § 39-17-1307;

SECTION 2. Tennessee Code Annotated Section, 40-35-121(a)(4)(A), is amended by deleting the language “or solicitation or conspiracy to commit” and substituting instead the language “facilitation of, solicitation of, or conspiracy to commit”.

SECTION 3. Tennessee Code Annotated, Section 40-35-121, is amended by adding the following language as a new subsection (i):

(i) For purposes of establishing a “pattern of criminal gang activity” the following offenses may be considered:

- (1) Criminal gang offenses, as defined by subdivision (a)(3)(A), committed prior to July 1, 2013; and,
- (2) Criminal gang offenses, as defined by subdivision (a)(3)(B), committed on or after July 1, 2013.

SECTION 4. This act shall take effect July 1, 2013, the public welfare requiring it.

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PASSED: APRIL 16, 2013

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 13<sup>th</sup> day of May 2013

  
BILL HASLAM, GOVERNOR