



State of Tennessee

PUBLIC CHAPTER NO. 399

HOUSE BILL NO. 1062

By Representatives Hawk, Howell, Curcio, Hardaway, Ramsey, Moon, Towns, Parkinson, McKenzie, Harris, Smith, Thompson, Hazlewood, Lamar, Gloria Johnson, Lynn, Jernigan, Powell, Camper, Clemmons, Hurt, Love

Substituted for: Senate Bill No. 1349

By Senators Gardenhire, Massey, Gilmore, Akbari, Campbell, Jackson, Kyle, Walley

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 40, relative to the death penalty.

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

SECTION 1. Tennessee Code Annotated, Section 39-13-203, is amended by deleting subsection (a) and substituting:

(a) As used in this section, "intellectual disability" means:

- (1) Significantly subaverage general intellectual functioning;
- (2) Deficits in adaptive behavior; and

(3) The intellectual disability must have manifested during the developmental period, or by eighteen (18) years of age.

SECTION 2. Tennessee Code Annotated, Section 39-13-203, is amended by adding the following as a new subsection:

(g)

(1) A defendant who has been sentenced to the death penalty prior to the effective date of this act and whose conviction is final on direct review may petition the trial court for a determination of whether the defendant is intellectually disabled. The motion must set forth a colorable claim that the defendant is ineligible for the death penalty due to intellectual disability. Either party may appeal the trial court's decision in accordance with Rule 3 of the Tennessee Rules of Appellate Procedure.

(2) A defendant shall not file a motion under subdivision (g)(1) if the issue of whether the defendant has an intellectual disability has been previously adjudicated on the merits.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

