

HOUSE BILL 806

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 12, Part 2, relative to criminal offenses.

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

SECTION 1. Tennessee Code Annotated, Section 39-12-202, is amended by deleting the section and substituting instead the following:

(a) The general assembly finds and declares that an effective means of punishing and deterring organized crime involving gang activity and human trafficking is prosecuting unlawful conduct that furthers the interests of these criminal organizations, as well as the forfeiture of profits derived from such criminal activities.

(b) It is not the intent of the general assembly that isolated incidents of felony conduct be prosecuted under this part, but only an interrelated pattern of criminal activity.

SECTION 2. Tennessee Code Annotated, Section 39-12-203, is amended by deleting subdivision (3) and substituting instead the following:

(3) "Enterprise" means a formal or informal ongoing organization, association, or group that has as one (1) of its primary activities the commission of one (1) or more offenses qualifying as racketeering activity, and that consists of three (3) or more persons:

(A) Who share a common name, identifying signs, colors, or symbols, including, but not limited to, terrorist organizations, hate groups, and criminal gangs as defined in § 40-35-121(a)(1); or

(B) Who share the primary purpose of promoting or facilitating commercial sex acts, as defined under § 39-13-301(4);

SECTION 3. Tennessee Code Annotated, Section 39-12-203, is amended by adding the following new subdivision:

() "Ongoing" means that the enterprise was in existence when the racketeering activity was committed as charged in a petition, warrant, indictment, information, presentment, or action for civil injunctive relief;

SECTION 4. Tennessee Code Annotated, Section 39-12-203, is amended by deleting subdivision (6) and substituting instead the following:

(6) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intents, purposes, results, accomplices, victims, or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents; provided, that at least one (1) of the incidents occurred after July 1, 2023, and the last of the incidents occurred within eight (8) years after a prior incident. Racketeering activity that was the subject of a prior prosecution that resulted in an acquittal must not be used under this part;

SECTION 5. Tennessee Code Annotated, Section 39-12-203, is amended by deleting subdivision (9) and substituting instead the following:

(9) "Racketeering activity" means to commit, attempt to commit, conspire to commit, or to aid, attempt to aid, solicit, coerce, facilitate, or intimidate another person to commit:

(A) An offense under chapter 13, part 2 of this title, relating to criminal homicide;

(B) An offense under chapter 13, part 3 of this title, relating to kidnapping, false imprisonment, or human trafficking;

- (C) An offense under chapter 13, part 4 of this title, relating to robbery;
- (D) An offense under chapter 13, part 10 of this title, relating to burglary;
- (E) An offense under chapter 14, part 7 of this title, relating to criminal instruments;
- (F) An offense under chapter 14, part 9 of this title, relating to money laundering;
- (G) An offense under chapter 17, part 13 of this title, relating to weapons;
- (H) Assault under § 39-13-101;
- (I) Aggravated assault under § 39-13-102;
- (J) Reckless endangerment under § 39-13-103;
- (K) Domestic assault under § 39-13-111;
- (L) Violation of an order of protection or restraining order under § 39-13-113;
- (M) Aggravated rape under § 39-13-502;
- (N) Rape under § 39-13-503;
- (O) Aggravated sexual battery under § 39-13-504;
- (P) Promoting prostitution under § 39-13-515;
- (Q) Continuous sexual abuse of a child under § 39-13-518;
- (R) Rape of a child under § 39-13-522;
- (S) Aggravated rape of a child under § 39-13-531;
- (T) Promoting travel for prostitution under § 39-13-533;
- (U) Unauthorized use of automobiles and other vehicles under § 39-14-106;
- (V) Theft of property under § 39-14-103;
- (W) Extortion under § 39-14-112;

- (X) Forgery under § 39-14-114;
- (Y) Criminal simulation under § 39-14-115;
- (Z) Illegal possession or fraudulent use of credit or debit card under § 39-14-118;
- (AA) Identity theft under § 39-14-150;
- (BB) Arson under § 39-14-301;
- (CC) Aggravated arson under § 39-14-302;
- (DD) Setting fire to personal property or land under § 39-14-303;
- (EE) Aggravated criminal trespass under § 39-14-406;
- (FF) Trespass by motor vehicle under § 39-14-407;
- (GG) Vandalism under § 39-14-408;
- (HH) Bribery of a public servant under § 39-16-102;
- (II) Bribery of a witness under § 39-16-107;
- (JJ) Bribery of a juror under § 39-16-108;
- (KK) Contraband in penal institutions under § 39-16-201;
- (LL) Criminal impersonation under § 39-16-301;
- (MM) Using a false identification under § 39-16-303;
- (NN) False reports under § 39-16-502;
- (OO) Tampering with or fabricating evidence under § 39-16-503;
- (PP) Coercion or persuasion of a witness under § 39-16-507;
- (QQ) Coercion of a juror under § 39-16-508;
- (RR) Improper influence of a juror under § 39-16-509;
- (SS) Retaliation for past action under § 39-16-510;
- (TT) Threats of mass violence on school property or at a school-related activity under § 39-16-517;

- (UU) Obstruction of law enforcement under § 39-16-602;
- (VV) Evading arrest under § 39-16-603;
- (WW) Escape under § 39-16-605;
- (XX) Introduction of implements for escape under § 39-16-608;
- (YY) Perjury under § 39-16-702;
- (ZZ) Aggravated perjury under § 39-16-703;
- (AAA) Subornation of perjury under § 39-16-705;
- (BBB) Stalking, aggravated stalking, or especially aggravated stalking under § 39-17-315;
- (CCC) A drug offense under § 39-17-417;
- (DDD) Simple possession or casual exchange under § 39-17-418;
- (EEE) Counterfeit controlled substances under § 39-17-423;
- (FFF) Unlawful drug paraphernalia under § 39-17-425;
- (GGG) Immediate methamphetamine precursor under § 39-17-431;
- (HHH) Promotion of methamphetamine manufacture under § 39-17-433;
- (III) Manufacture, delivery, sale, or possession of methamphetamines under § 39-17-434;
- (JJJ) Initiation of methamphetamine manufacture process under § 39-17-435;
- (KKK) Controlled substance analogue under § 39-17-454;
- (LLL) Gambling under § 39-17-502;
- (MMM) Gambling promotion under § 39-17-503;
- (NNN) Aggravated gambling promotion under § 39-17-504;
- (OOO) Sexual exploitation of a minor under § 39-17-1003;
- (PPP) Aggravated sexual exploitation of a minor under § 39-17-1004; or

(QQQ) Especially aggravated sexual exploitation of a minor under § 39-17-1005;

SECTION 6. Tennessee Code Annotated, Section 39-12-203, is amended by deleting subdivision (13) in its entirety.

SECTION 7. Tennessee Code Annotated, Section 39-12-204, is amended by deleting the section and substituting instead the following:

(a) It is an offense for a person employed by, or associated with, an enterprise to knowingly conduct or participate in the enterprise through a pattern of racketeering activity.

(b) It is an offense for a person, through a pattern of racketeering activity, to acquire or maintain, directly or indirectly, an interest in or control of an enterprise of real or personal property.

(c) It is an offense for a person who has received proceeds derived from a pattern of racketeering activity to use or invest any part of those proceeds in the acquisition of any interest in real or personal property or in the establishment or operation of an enterprise.

(d) It is an offense for a person to attempt or conspire to violate subsection (a), (b), or (c).

(e) A person may be convicted for a violation of this section, a conspiracy to violate this section, and any predicate acts of racketeering activity.

SECTION 8. Tennessee Code Annotated, Section 39-12-205, is amended by deleting subsection (a) and substituting instead the following:

(a) A conviction under this part must be punished as a Class B felony, unless the conviction is based upon a pattern of racketeering activity that involved a homicide, in which case the conviction must be punished as a Class A felony. A person convicted

under this part must be fined not more than two hundred fifty thousand dollars (\$250,000) and, notwithstanding title 40, chapter 35, must be punished as a Range II offender, however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case may it be lower than Range II.

SECTION 9. This act takes effect July 1, 2023, the public welfare requiring it, and applies to offenses committed on or after that date.