

HOUSE BILL 2323

By Hazlewood

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to sentencing.

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

SECTION 1. Tennessee Code Annotated, Section 39-13-111, is amended by deleting subdivision (c)(3) and substituting:

(3) A third or subsequent conviction for domestic assault, under § 39-13-101(a)(1), is a Class E felony. The defendant must be sentenced to mandatory confinement of not less than ninety (90) consecutive days in the county jail or workhouse. The defendant must pay a fine of not less than one thousand one hundred dollars (\$1,100) nor more than five thousand dollars (\$5,000).

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

(a) "Qualifying misdemeanor" means any of the following misdemeanor convictions:

- (1) A misdemeanor offense of solicitation of a minor, under § 39-13-528;
- (2) A misdemeanor offense of theft of property, under § 39-14-103;
- (3) A misdemeanor offense of theft of services, under § 39-14-104;
- (4) Aggravated criminal trespass, under § 39-14-406;
- (5) Assault, under § 39-13-101;
- (6) Assault against a first responder or nurse, under § 39-13-116(a);
- (7) Child abuse, under § 39-15-401(a);
- (8) Child neglect or endangerment, under § 39-15-401(b);

- (9) Criminal attempt of a Class E felony, under § 39-12-101 and § 39-12-107;
- (10) Criminal conspiracy of a Class E felony, under § 39-12-103 and § 39-12-107;
- (11) Criminal responsibility for the facilitation of a Class E felony, under § 39-11-403;
- (12) Driving under the influence, under § 55-10-401;
- (13) Domestic assault, under § 39-13-111;
- (14) Electronic tracking of motor vehicles, under § 39-13-606;
- (15) Escape, under § 39-16-605(c)(1)(A);
- (16) Evading arrest, under § 39-16-603;
- (17) False imprisonment, under § 39-13-302;
- (18) Fraudulent use of a credit card, under § 39-14-118(b);
- (19) Harassment, under § 39-17-308(a);
- (20) Inciting to riot, under § 39-17-304;
- (21) Indecent exposure, under § 39-13-511;
- (22) Possession of a firearm while a protective order is in effect, under § 39-13-113(h);
- (23) Providing handguns to juveniles, under § 39-17-1320(a);
- (24) Public indecency, under § 39-13-517;
- (25) Reckless burning, under § 39-14-304;
- (26) Reckless endangerment, under § 39-13-103;
- (27) Riot, under § 39-17-302;
- (28) Simple possession or causal exchange of controlled substance, excluding marijuana, under § 39-17-418(a);

- (29) Solicitation of a Class D felony, under §§ 39-12-102 and 39-12-107;
- (30) Stalking, under § 39-17-315(b)(1);
- (31) Unauthorized use of automobiles and other vehicles, under § 39-14-106;
- (32) Unlawful carrying and possession of a firearm, under §§ 39-17-1307(h)(1) and 39-17-1307(f)(1);
- (33) Vandalism, under § 39-14-408; or
- (34) Violation of an order of protection or restraining order, under § 39-13-113(g).

(b) Notwithstanding subsection (c), a defendant convicted of any combination of five (5) or more qualifying misdemeanors is deemed a recidivist misdemeanant and commits a Class E felony on the sixth or subsequent qualifying misdemeanor.

(c) A defendant commits a Class E felony upon a third or subsequent conviction of any combination of the following offenses:

- (1) Assault against a first responder or nurse, under § 39-13-116(a);
- (2) Child abuse, under § 39-15-401(a);
- (3) Child neglect or endangerment, under § 39-15-401(b);
- (4) Domestic assault, under § 39-13-111;
- (5) Unlawful carrying and possession of a firearm, under §§ 39-17-1307(h)(1) and 39-17-1307(f)(1);
- (6) Violation of an order of protection or restraining order, under § 39-13-113(g); or
- (7) Violation of a no contact order, under § 39-13-113(i).

(d) If the offense date of a preceding qualifying misdemeanor conviction is within ten (10) years of the date of the present offense, all eligible qualifying misdemeanor

convictions occurring within twenty (20) years of the offense date of the present offense must be considered when determining the total number of preceding qualifying misdemeanor criminal convictions.

(e) This section does not apply if more than ten (10) years have elapsed between the offense date of the present offense and the offense date of a preceding qualifying misdemeanor conviction.

(f) A preceding qualifying misdemeanor conviction from another jurisdiction other than this state must be considered a preceding qualifying misdemeanor conviction if the elements of the offense are the same as the elements of a comparable offense in this state.

(g) If more than one (1) preceding qualifying misdemeanor conviction occurs on a single date, only one (1) conviction from that date may be used for the purposes of this section.

(h) To seek enhanced punishment under this section, eligible preceding qualifying misdemeanor convictions must be alleged in a separate count of the indictment. The indictment must include:

- (1) The dates of the offenses;
- (2) The dates of the convictions;
- (3) The names of the preceding offenses; and
- (4) The jurisdiction where the preceding qualifying misdemeanor convictions occurred.

(i) A certified judgment or certified copies of the records of a court clerk constitutes prima facie evidence of a preceding qualifying misdemeanor conviction for purposes of this section.

(j) This section does not prohibit a district attorney general from seeking enhanced punishment under any other laws of this state.

SECTION 3. This act takes effect July 1, 2024, the public welfare requiring it.