

Tennessee's Reformed Drug-free Zone Sentencing Law, § 39-17-432

(after passage of SB 2734, effective September 1, 2020)

(a) It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced ~~and mandatory minimum sentences required~~ **sentences authorized** by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.

~~(b)(1) A violation of § 39-17-417, or a conspiracy to violate the section, that occurs on the grounds or facilities of any school or within one thousand feet (1,000') of the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, or public library, recreational center or park shall be punished one (1) classification higher than is provided in § 39-17-417(b)–(i) for such violation.~~

(1) A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

(A) On the grounds or facilities of any school; or

(B) Within five hundred feet (500') of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

(2) In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) ~~shall also be~~ **may also be** subject to the following:

(A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars (\$10,000);

(B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars (\$20,000);

(C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars (\$40,000);

(D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars (\$60,000); and

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).

(3) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) ~~but shall be subject to~~ **but may be subject to** the additional fines imposed by this section.

~~(c) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) shall be required to serve at least the minimum sentence for the defendant's appropriate range of sentence. Any sentence reduction credits the defendant may be eligible for or earn shall not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.~~

(1) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) may be required to serve at least the minimum sentence for the defendant's appropriate range of sentence.

(2) There is a rebuttable presumption that a defendant is not required to serve at least the minimum sentence for the defendant's appropriate range of sentence. The rebuttable presumption is overcome if the court finds that the defendant's conduct exposed vulnerable persons to the distractions and dangers that are incident to the occurrence of illegal drug activity.

(3) If the defendant is required to serve at least the minimum sentence for the defendant's appropriate range of sentence, any sentence reduction credits the defendant may be eligible for or earn must not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

~~(d) Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole, shall not apply to or authorize the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.~~

Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

~~(e) Nothing in title 41, chapter 1, part 5 shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.~~

Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

~~(f) Nothing in this section shall be construed as prohibiting the judge from sentencing a defendant who violated subsection (b) to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.~~

This section does not prohibit the judge from sentencing a defendant, who violated subsection (b) and is required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

~~(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-17-417(k), may only be enhanced one (1) time under those sections for each act. The state must elect under which section it intends to seek enhancement of the defendant's sentence and shall provide notice of the election pursuant to § 40-35-202.~~

The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-17-417(k), may be enhanced under both subsection (b) and § 39-17-417(k) for each act. The state may seek enhancement of the defendant's sentence under subsection (b), § 39-17-417(k), or both, and shall provide notice of the election pursuant to § 40-35-202.