



# State of Tennessee

## PUBLIC CHAPTER NO. 162

### SENATE BILL NO. 221

By Harris

Substituted for: House Bill No. 4

By Parkinson, Cooper, Hardaway, Staples

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 28, relative to parole and parolees.

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

SECTION 1. Tennessee Code Annotated, Section 40-28-607, is amended by adding the following new subsection:

(c) Section 40-28-122(g) shall apply if:

(1) A paroled prisoner's probation and parole officer believes that the prisoner has violated the conditions of parole in an important respect based solely on the paroled prisoner being arrested on new criminal charges while on parole;

(2) The director or the director's designee agrees that the paroled prisoner violated parole solely by being arrested for a new criminal charge and a warrant for the retaking of the paroled prisoner is issued; and

(3) The paroled prisoner is arrested and incarcerated pending or following a parole revocation or rescission hearing.

SECTION 2. Tennessee Code Annotated, Section 40-28-122, is amended by adding the following new subsection (g):

(1) This subsection (g) shall apply to a paroled prisoner who is reincarcerated while awaiting a parole revocation preliminary hearing, a parole revocation hearing, or a parole rescission hearing, or following revocation or rescission of parole, and the sole reason the paroled prisoner was arrested and reincarcerated was because the paroled prisoner was charged with a new offense. Upon receipt of notification that the prisoner's revocation or rescission case, which was previously decided by the board, merits further review based upon the circumstances under which the new offense was dismissed, the board shall waive the time limitation for appeal, as set in rule by the board, and any limitation based on previously filed appeals, in order that the prisoner may submit evidence of any of the following events:

(A) The charge or charges against the paroled prisoner that resulted in the arrest of the prisoner for a parole violation were dismissed or retired based on the merits of the case;

(B) A no true bill was returned by a grand jury on the charge or charges;

(C) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

(D) The paroled prisoner was arrested and released, without being charged.

(2) The notification required by subdivision (g)(1) may be in written or electronic form and shall be submitted by:

(A) The district attorney general from the judicial district in which the charges were brought or the district attorney general's designee;

(B) The judge in the court where charges were brought;

(C) The department of correction;

(D) The prisoner's attorney, provided that the notification is also signed by one (1) of the officials in subdivisions (g)(2)(A)-(C); or

(E) The prisoner, provided that the notification is also signed by one (1) of the officials in subdivisions (g)(2)(A)-(C).

(3) Upon verification of the authenticity of the submitted notification, which shall occur within ten (10) business days from receipt of the notification, and submission of evidence of the occurrence of one (1) or more of the events in subdivision (g)(1)(A)-(D), the board, or the board's designee, shall conduct a hearing on the record to determine if:

(A) One (1) of the events in subdivision (g)(1)(A)-(D) has occurred involving a charge against a parolee that was committed while on parole; and

(B) The parolee was reincarcerated solely because of this charge and the parolee remains incarcerated while awaiting a parole revocation or rescission hearing or because the parolee's parole was revoked or rescinded.

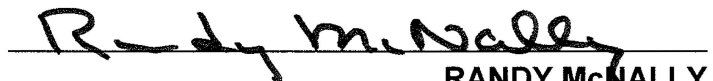
(4) If, after the board or the board's designee conducts a hearing on the record, the board determines that the events described in subdivisions (g)(3)(A) and (B) have occurred, the board may vote to order the release and reinstatement on parole of the prisoner in accordance with applicable law. If released and reinstated, any sentence credits that may have been lost while the paroled prisoner was incarcerated shall also be reinstated. The number of votes required to release and reinstate the prisoner's parole shall be determined in accordance with the rules of the board.

(5) The hearing conducted pursuant to this subsection (g) shall be scheduled on the next available docket upon the occurrence of the events defined in subdivisions (g)(1)-(3), and shall be conducted no later than thirty-five (35) days from verification of the notification required by subdivision (g)(1).

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

SENATE BILL NO. 221

PASSED: April 10, 2017

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 24<sup>th</sup> day of April 2017

  
BILL HASLAM, GOVERNOR