

TENNESSEE CODE ANNOTATED

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*** CURRENT THROUGH THE 2008 REGULAR SESSION ***

*** ANNOTATIONS CURRENT THROUGH MAY 21, 2008 ***

Title 40 Criminal Procedure

Chapter 35 Criminal Sentencing Reform Act of 1989

Part 2 --Procedure for Imposing Sentence

Go to the Tennessee Code Archive Directory

Tenn. Code Ann. § 40-35-213 (2008)

40-35-213. Eligibility for work release program.

(a) Notwithstanding any other law to the contrary, no person convicted of a sexual offense or violent sexual offense as defined in § 40-39-202, whether in the custody or control of the department of correction, a local government or a private prison contractor, shall be eligible for any work release program offered by or that may be offered by the correctional facility in which the offender is housed.

(b) As used in subsection (a), "work release program" includes any assignment to a work crew in which a prisoner is permitted to go out into the community, whether supervised or unsupervised, but does not include a work assignment to TRICOR or any TRICOR facility.

HISTORY: [Acts 2008, ch. 901, § 2.]

NOTES:

Effective Dates.

Acts 2008, ch. 901, § 3. May 12, 2008.

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Title 40 Criminal Procedure
Chapter 35 Criminal Sentencing Reform Act of 1989
Part 3 --Sentences

Go to the Tennessee Code Archive Directory*Tenn. Code Ann. § 40-35-315 (2008)***40-35-315. Jurisdiction of sentencing court to order work release.**

(a) In any case in which a defendant has been sentenced to a local jail or workhouse or is at a local jail or workhouse subject to the provisions of § 40-35-212, and the administrative authority of the institution has not formulated a program for work release, the sentencing court shall have jurisdiction to order work release as a part of a sentence, either at the time of sentencing or as a part of any subsequent sentence modification, upon conditions to be set by the sentencing court. This section shall apply to convictions under § 55-10-401 after the mandatory minimum sentences have been served.

(b) Notwithstanding subsection (a), the sentencing court shall not be authorized to order work release as part of the sentence of a person convicted of a sexual offense or violent sexual offense as defined in § 40-39-202. As used in this subsection (b), "work release" includes any assignment to a work crew in which a prisoner is permitted to go out into the community, whether supervised or unsupervised, but does not include a work assignment to TRICOR or any TRICOR facility.

HISTORY: [Acts 1989, ch. 591, § 6; 1990, ch. 980, § 27; 2008, ch. 901, § 1.]

NOTES:**Sentencing Commission Comments.**

This section is new to Tennessee law and permits the judge to direct that the defendant be allowed to participate in work release. Judicially authorized work release is not permitted for convictions for driving under the influence until the mandatory minimum sentence has been served. However, see § 41-2-128 for the provisions of work release for certain DUI offenders in Shelby County. Work release is permitted only if the local facility has not already formulated a program for work release. See § 41-2-133. This exception does not conflict with § 40-35-307 dealing with periodic confinement, since that provision deals with intermittent confinement coupled with probation supervision.

Compiler's Notes.

Former chapter 35, §§ 40-35-101 -- 40-35-112, 40-35-201 -- 40-35-214, 40-35-301 -- 40-35-316, 40-35-401 -- 40-35-403, 40-35-501 -- 40-35-504 (Acts 1982, ch. 868, § 1; *T.C.A.*, §§ 40-35-108, 40-43-101 -- 40-43-104, 40-43-106, 40-43-107, 40-43-109 -- 40-43-112, 40-43-201 -- 40-43-205, 40-43-207 -- 40-43-212, 40-43-214, 40-43-301 -- 40-43-304, 40-43-306 -- 40-43-309, 40-43-311 -- 40-43-315, 40-43-401 -- 40-43-403, 40-43-501 -- 40-43-504), concerning the Tennessee Criminal Sentencing Reform Act of 1982, was repealed by Acts 1989, ch. 591, § 6.

Amendments.

The 2008 amendment added (b).

Effective Dates.

Acts 2008, ch. 901, § 3. May 12, 2008.

Cross-References.

Driving under the influence, § 55-10-401.

Misdemeanor sentencing, § 40-35-302.

Prisoner Rehabilitation Act, title 41, ch. 21.

Sentencing alternatives, § 40-35-104.

Section to Section References.

This section is referred to in §§ 9-8-307, 40-35-104.

Textbooks.

Tennessee Forms (Robinson, Ramsey and Harwell), No. 3-32-4.

NOTES TO DECISIONS

1. Conditions.

1. Conditions.

Appellate court affirmed the conditions imposed on defendant's work release after his probation was revoked because the requirement that he work in state and not any place where there would be children under 18 were reasonable given his conviction for sexual battery by authority figure in the state, and the trial court had authority to impose the conditions under *T.C.A.* § 40-35-315. *State v. Norton*, -- S.W.3d --, 2005 *Tenn. Crim. App. LEXIS 1170* (Tenn. Crim. App. Nov. 7, 2005).

Collateral References.

Sentencing guidelines 350H.650-998