

SENATE BILL 229

By Massey

AN ACT to amend Tennessee Code Annotated, Section 39-13-111 and Section 40-14-109, relative to notification to and procedures for domestic violence offenders.

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

SECTION 1. Tennessee Code Annotated, Section 40-14-109, is amended by deleting the section and substituting instead the following:

(a) As used in this section, "domestic violence offense" means an offense that:

(1) Is classified as a misdemeanor in this state;

(2) Has as an element of the offense the use or attempted use of physical force or the threatened use of a deadly weapon; and

(3) Is committed by a:

(A) Current or former spouse, parent, or guardian of the victim;

(B) Person with whom the victim shares a child in common;

(C) Person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or

(D) Person similarly situated to a spouse, parent, or guardian of the victim.

(b) Before the court accepts the guilty plea of a defendant charged with a domestic violence offense, it shall notify the defendant of the following:

(1) Pursuant to § 39-17-1307(f)(1), and 18 U.S.C. § 922(g), it is a state and federal offense for a person convicted of a domestic violence offense, and who is still subject to the disabilities of such a conviction, to possess or purchase

a firearm. This means that from the moment of conviction for a domestic violence offense, the defendant will never again be able to lawfully possess or buy a firearm of any kind;

(2) A defendant convicted of a domestic violence offense also must lawfully dispose of all firearms in the defendant's possession at the time of the conviction;

(3) If the defendant possesses firearms as business inventory or that are registered under the National Firearms Act (26 U.S.C. §§ 5801 et seq.), there are additional statutory provisions that may apply and these additional provisions will be included in the court's order; and

(4) A firearm subject to dispossession as the result of a domestic violence conviction will not be forfeited as provided in § 39-17-1317, unless the possession of the firearm prior to committing the domestic violence offense constituted an independent offense for which the defendant has been convicted, or the firearms are abandoned by the defendant.

(c) After informing the defendant of the firearm consequences of a conviction for a domestic violence offense pursuant to subsection (b), the court may accept the plea of guilty if the defendant clearly states on the record that the defendant is aware of the consequences of a conviction for a domestic violence offense and still wishes to enter a plea of guilty.

(d)

(1) If a defendant is not represented by an attorney but wishes to proceed to trial on a charge of committing a domestic violence offense, the court shall also inform the defendant of the consequences of a conviction for a domestic violence offense as provided in subsection (b).

(2) If a defendant is represented by an attorney and the defendant intends to proceed to trial on a charge of committing a domestic violence offense, prior to commencement of the trial, the judge shall inquire of the defendant's

attorney if the attorney has advised the defendant of the consequences of a conviction for a domestic violence offense. If not, the judge shall instruct the attorney to so advise the defendant.

(e) If a defendant is found guilty by a jury or the court of a domestic violence offense, the court, immediately upon conviction, shall notify the defendant of the consequences of such a conviction as set out in subsection (b).

SECTION 2. Tennessee Code Annotated, Section 39-13-111, is amended by deleting subdivision (c)(6) and substituting instead the following:

(6) If a defendant pleads guilty or is found guilty of a domestic violence offense, as defined in § 40-14-109, the judge shall immediately order that the defendant:

(A) Terminate physical possession of all firearms in the defendant's possession within forty-eight (48) hours of the conviction by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms; and

(B)

(i) Complete an affidavit of firearms dispossession form and return it to the court in which the defendant was convicted when all firearms have been lawfully dispossessed as required by subdivision (c)(6)(A).

(ii) The defendant may obtain the affidavit of dispossession from the court or court clerk or the defendant may be directed to obtain a copy from the website of the administrative office of the courts.

SECTION 3. The affidavit of firearms dispossession form required by § 39-13-111(c)(6)(B)(i) following a conviction for a domestic violence offense shall be developed by the domestic violence state coordinating council, in consultation with the administrative office of the

courts. Upon completion, the form shall be posted on the website of the administrative office of the courts where it can be copied by defendants or provided to them by the court or court clerk upon conviction.

SECTION 4. For purposes of promulgating the dispossession of firearms form required following a conviction for a domestic violence offense pursuant to Section 3, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2017, the public welfare requiring it.