

HOUSE BILL 1452

By Coleman

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to the rights and immunities of victims of
crime.

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

SECTION 1. Tennessee Code Annotated, Title 40 , Chapter 38, Part 3, is amended by
adding the following as a new section:

Section 40-38-303.

(a) In order for a victim of crime to meaningfully exercise the victim's constitutional right to be heard, when relevant, at all critical stages of the criminal justice process, a victim is immune from civil liability or any civil cause of action brought by the offender that arises from the victim's testimony at the offender's hearing before the board of probation and parole, or a panel thereof. Such immunity from suit shall not apply if the victim's testimony is intentionally and maliciously false or so outrageously defamatory against the offender as to demonstrate actual malice.

(b)

(1) If the offender brings a cause of action against the victim based upon the victim's testimony before the board of probation and parole, or a panel thereof, in spite of the immunity conferred by subsection (a), the court shall conduct a show cause hearing within three (3) days of the date of filing the action. The victim, shall be notified of the date, time and location of the hearing. The offender shall be at the hearing and the victim or the victim's representative may attend such

hearing. The court may, upon motion of the offender, grants an extension of the show cause hearing for up to three (3) additional days if the judge finds a delay is necessary to allow the offender to produce necessary evidence.

(2) At the show cause hearing, the offender shall be required to submit credible proof to the judge that the claim is not baseless or brought for the purpose of intimidating or harassing the victim.

(3) If the court finds that there is credible evidence that the victim's testimony before the panel was such that the immunity conferred by subsection (a) is not applicable, it shall allow the cause of action to proceed.

(4) If the court finds that the offender has not produced sufficient evidence to overcome the victim's immunity conferred by subsection (a), it shall dismiss the cause of action with prejudice.

(5) If the court finds that not only was the action without merit but was brought for the purpose of intimidating, harassing or abusing the victim in violation of Article I, Section 35 of the Tennessee Constitution, it:

(A) Shall notify the appropriate warden of the offender's institution and recommend disciplinary action against the offender, including the loss of sentence reduction credits; and

(B) May prohibit the offender from filing any future actions of a similar nature in such court.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it and shall apply to all applicable causes of action.