



State of Tennessee

PUBLIC CHAPTER NO. 483

HOUSE BILL NO. 687

By Representatives Maggart, Harry Brooks, Dean, Hensley, Powers, Elam, Hall, Eldridge, Sexton, Evans, Coley, Shipley, Halford, Harrison, Bass, Carr, Weaver, Butt, Sargent, Don Miller, Hurley, Haynes, Rich, Lollar, McManus, Gotto, Lundberg, Ryan Williams

Substituted for: Senate Bill No. 869

By Senators Kelsey, McNally, Roberts, Gresham, Ford, Burks

AN ACT to amend Tennessee Code Annotated, Title 37; Title 40; Title 49 and Title 55, to add certain juvenile sexual offenders to the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-127, is amended by adding the following new subsection thereto:

(f) If a child is charged with a delinquent act that could qualify such child as a violent juvenile sexual offender, as defined by § 40-39-202(27), such child shall be given verbal and written notice of the violent juvenile sexual offender registration requirements prior to a hearing on whether the child committed such act.

SECTION 2. Tennessee Code Annotated, Section 37-1-153(f)(1)(A), is amended by adding the following language as a new subdivision thereto:

(iv) Does not have an adjudication of delinquency for a violent juvenile sexual offense as defined in § 40-39-202(28);

SECTION 3. Tennessee Code Annotated, Section 40-28-201(a)(2), is amended by deleting the language "40-39-201" and substituting instead the language "40-39-202".

SECTION 4. Tennessee Code Annotated, Section 40-39-201(b)(7), is amended by adding the following language after the language "sex offender registry;":

provided, that a juvenile offender required to register under this part shall not be required to pay the administrative fee until the offender reaches eighteen (18) years of age;

SECTION 5. Tennessee Code Annotated, Section 40-39-202, is amended by inserting the following between the third and fourth sentences of subdivision (2):

An adjudication in another state for a delinquent act committed in another jurisdiction that would be classified as a violent juvenile sexual offense under this section, if committed in this state, shall be considered a violent juvenile sexual offense for the purposes of this part.

SECTION 6. Tennessee Code Annotated, Section 40-39-202, is amended by adding the following to the end of subdivision (2):

"Conviction" also includes a juvenile delinquency adjudication for a violent juvenile sexual offense if the offense occurs on or after July 1, 2011.

SECTION 7. Tennessee Code Annotated, Section 40-39-202(10), is amended by deleting the subdivision in its entirety and substituting instead the following:

(10) "Offender" means sexual offender, violent sexual offender and violent juvenile sexual offender, unless otherwise designated. An offender who qualifies both

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as a sexual offender and a violent sexual offender or as a violent juvenile sexual offender and as a violent sexual offender shall be considered a violent sexual offender;

SECTION 8. Tennessee Code Annotated, Section 40-39-202(13), is amended by deleting the subdivision in its entirety and substituting instead the following:

(13) "Register" means the initial registration of an offender, or the re-registration of an offender after deletion or termination from the SOR;

SECTION 9. Tennessee Code Annotated, Section 40-39-202, is amended by adding the following new subdivisions to be designated as (27) and (28) and by redesignating existing subdivisions accordingly:

(27)

(A) "Violent juvenile sexual offender" means a person fourteen (14) years of age or more but less than eighteen (18) years of age who has been adjudicated delinquent in this state for any act that constitutes a violent juvenile sexual offense as defined in this section.

(B) At the time of adjudication of a qualifying offense, such offender shall become a violent sexual offender and this part governing violent sexual offenders shall be applicable to such violent juvenile sexual offender, unless otherwise set out in this part;

(28) "Violent juvenile sexual offense" means:

An adjudication of delinquency, for any act committed on or after July 1, 2011, that, if committed by an adult, constitutes the criminal offense of:

(i) Aggravated rape, under § 39-13-502;

(ii) Rape, under § 39-13-503;

(iii) Rape of a child, under § 39-13-522, provided the victim is at least four (4) years younger than the offender;

(iv) Aggravated rape of a child, under § 39-13-531; or

(v) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision.

SECTION 10. Tennessee Code Annotated, Section 40-39-203, is amended by deleting subdivision (a)(2) and substituting instead the following:

(a)

(2) Regardless of an offender's date of conviction, adjudication or discharge from supervision, an offender whose contact with this state is sufficient to satisfy the requirements of subdivision (a)(1) is required to register in person as required by this part, if the person was required to register as any form of sexual offender, juvenile offender or otherwise, in another jurisdiction prior to the offender's presence in this state.

SECTION 11. Tennessee Code Annotated, Section 40-39-203(i)(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

(6) Sexual offenses or violent sexual offenses for which the registrant has been convicted, the date of the offenses and the county and state of each conviction; or the violent juvenile sexual offense for which the registrant has been adjudicated delinquent, the date of the act for which the adjudication was made and the county and state of each adjudication;

SECTION 12. Tennessee Code Annotated, Section 40-39-203, is amended by adding the following new subsection (p):

(p) Any court exercising juvenile jurisdiction that adjudicates a juvenile as delinquent for conduct that qualifies such juvenile as a violent juvenile sexual offender shall transmit the information set out in subsection (i) pertaining to such violent juvenile sexual offender to the TBI for inclusion on the SOR within forty-eight (48) hours of the offender's adjudication for the qualifying offenses set out in § 40-39-202(28).

SECTION 13. Tennessee Code Annotated, Section 40-39-204, is amended by designating existing subsection (b) as subdivision (b)(1) and by adding the following new subdivision (b)(2):

(2) At least once during the months of March, June, September, and December of each calendar year, all violent juvenile sexual offenders shall report in person to the offender's registering agency to update the offender's fingerprints, palm prints and photograph, as determined necessary by the agency, and to verify the continued accuracy of the information transmitted to the TBI by the registering agency as defined in § 40-39-202(14). Offenders in custody shall register as set out in § 40-39-203(b)(1).

SECTION 14. Tennessee Code Annotated, Section 40-39-206, is amended by adding the following new subsection (e) and by redesignating present subsection (e) accordingly:

(e) For any violent juvenile sexual offender who is adjudicated for a violent juvenile sexual offense, the information concerning the violent juvenile sexual offender set out in (d) of this section shall be confidential, except as otherwise provided under § 40-39-207(j) of this chapter and any other provision of law.

SECTION 15. Tennessee Code Annotated, Section 40-39-207, is amended by adding the following new subsection thereto:

(j)

(1) Violent juvenile sexual offenders who are currently registered as such and who receive a subsequent adjudication in juvenile court or a court having juvenile court jurisdiction for one of the offenses listed in § 40-39-202 (28) or a crime that if committed in Tennessee would require registration shall be required to register for life. Information concerning the violent juvenile sexual offender who commits a subsequent offense listed in § 40-39-202(28) which was formerly considered confidential under § 40-39-206(e) shall be deemed public information once the offender reaches his eighteenth birthday.

(2) Violent juvenile sexual offenders who are currently registered as such and who, upon reaching the age of eighteen, are convicted of a sexual offense as set out in § 40-39-202(20) or a violent sexual offense as set out in § 40-39-202(30) shall be required to register for life. Information concerning the violent juvenile sexual offender who commits a subsequent offense listed in § 40-39-202 (20) or § 40-39-202 (30) which was formerly considered confidential under § 40-39-206(e) shall be deemed public information.

(3) Violent juvenile sexual offenders who reach the age of twenty-five, and who have not been adjudicated or convicted of a subsequent qualifying offense as set out in subdivisions (1) and (2) above, shall be eligible for termination from the SOR. Upon reaching the age of twenty-five, the violent juvenile sexual offender may apply for removal from the SOR by use of a form created by the TBI. The form will contain a statement, sworn to by the offender under the penalty of perjury, that the offender has not been convicted of or adjudicated delinquent of any of the offenses set out in subdivisions (1) and (2) above.

(4) TBI shall also conduct fingerprint-based state and federal criminal history checks to determine whether the violent juvenile sexual offender has been convicted of or adjudicated on any prohibited crimes as set out in subdivisions (1) and (2) above, including crimes committed in other jurisdictions.

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(5) If the violent juvenile sexual offender has not been convicted or adjudicated delinquent in any of the prohibited crimes, he shall be removed from the Sex Offender Registry.

SECTION 16. Tennessee Code Annotated, Section 40-39-208(i), is amended by deleting the subsection in its entirety and substituting instead the following:

(i) Sexual offender, violent sexual offender and violent juvenile sexual offender registry files and records maintained by the TBI may be digitized. A digitized copy of any original file or record in the TBI's possession shall be deemed to be an original for all purposes, including introduction into evidence in all courts or administrative agencies.

SECTION 17. Tennessee Code Annotated, Section 40-39-208, is amended by adding new, appropriately designated subsection thereto:

() Notwithstanding any law to the contrary, a violent juvenile sexual offender who knowingly violates this part commits a delinquent act as defined by the juvenile code.

SECTION 18. Tennessee Code Annotated, Section 40-39-211(b), is amended by deleting the language:

No sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall knowingly:

and substituting instead the following language:

No sexual offender, violent sexual offender, or violent juvenile sexual offender, as those terms are defined in § 40-39-202, shall knowingly:

SECTION 19. Tennessee Code Annotated, Section 40-39-211, is amended by adding the following new subsection (i):

(i) The restrictions set out in subsections (a)-(d) shall not apply to a violent juvenile sexual offender required to register under this part unless otherwise ordered by a court of competent jurisdiction.

SECTION 20. Tennessee Code Annotated, Section 40-39-211, is amended by adding the following as a new, appropriately designated subsection thereto:

() Notwithstanding any law to the contrary, a violent juvenile sexual offender who knowingly violates this section commits a delinquent act as defined by the juvenile code.

SECTION 21. Tennessee Code Annotated, Section 40-39-213, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding any provision of this section to the contrary, no violent juvenile sexual offender shall be required to obtain a photo identification card or a valid driver license that has been properly designated by the department of safety pursuant to §55-50-353, until such violent juvenile sexual offender attains the age of eighteen (18) years.

SECTION 22. Tennessee Code Annotated, Section 40-39-214(a), is amended by deleting the language "immediately after a sex offender" and substituting instead the language "immediately after an offender".

SECTION 23. Tennessee Code Annotated, Section 40-39-215(a), is amended by deleting the language "for a sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202," and substituting instead the language "for a sexual offender, violent sexual offender or a violent juvenile sexual offender, as those terms are defined in § 40-39-202,".

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SECTION 24. Tennessee Code Annotated, Section 55-50-353, is amended by deleting the section in its entirety and substituting instead the following:

55-50-353.

When the department issues or renews a driver license or photo identification card to a sexual offender, violent sexual offender or violent juvenile sexual offender as required by § 40-39-213, the driver license or photo identification card shall bear a designation sufficient to enable a law enforcement officer to identify the bearer of the license or card as a sexual offender, violent sexual offender or violent juvenile sexual offender.

SECTION 25. This act shall take effect on July 1, 2011, the public welfare requiring it.

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PASSED: May 21, 2011

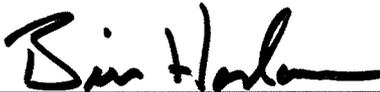


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 16th day of June 2011



BILL HASLAM, GOVERNOR