

TENNESSEE CODE ANNOTATED
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*** CURRENT THROUGH THE 2010 REGULAR SESSION ***
*** ANNOTATIONS SUPREME COURT CURRENT THROUGH MAY 24, 2010 ***

Title 40 Criminal Procedure
Chapter 39 Sexual Offender Registration and Monitoring
Part 2 --Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 40-39-201 (2010)

40-39-201. Short title -- Legislative findings.

(a) This part shall be known as and may be cited as the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004."

(b) The general assembly finds and declares that:

(1) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are violent sexual offenders who present an extreme threat to the public safety. Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or commitment and protection of the public from these offenders is of paramount public interest;

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual offenses collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;

(3) Persons convicted of these sexual offenses have a reduced expectation of privacy because of the public's interest in public safety;

(4) In balancing the sexual offender's and violent sexual offender's due process and other rights against the interests of public security, the general assembly finds that releasing information about offenders under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;

(5) The registration of offenders, utilizing complete and accurate information, along with the public release of specified information concerning offenders, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of offenders and for the public release of specified information regarding offenders. This policy of authorizing the release of necessary and relevant information about offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive;

(7) The offender is subject to specified terms and conditions that are implemented at sentencing or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain one hundred dollars (\$100) of these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year, with the remaining fifty dollars (\$50.00) of fees to be remitted to the Tennessee bureau of investigation's sex offender registry; and

(8) The general assembly also declares, however, that in making information about certain offenders available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those offenders.

40-39-202. Part definitions.

As used in this part, unless the context otherwise requires:

- (1) "Board" means the board of probation and parole;
- (2) "Conviction" means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. "Conviction" includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court in any other state of the United States, other jurisdiction or other country. A conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court for an offense committed in another jurisdiction that would be classified as a sexual offense or a violent sexual offense if committed in this state shall be considered a conviction for the purposes of this part. "Convictions," for the purposes of this part, also include a plea taken in conjunction with § 40-35-313 or its equivalent in any other jurisdiction;
- (3) "Designated law enforcement agency" means any law enforcement agency that has jurisdiction over the primary or secondary residence, place of physical presence, place of employment, school or institution of higher education where the student is enrolled or, for offenders on supervised probation or parole, the board or court ordered probation officer;
- (4) "Employed or practices a vocation" means any full-time or part-time employment in the state, with or without compensation, or employment that involves counseling, coaching, teaching, supervising, volunteering or working with minors in any way, regardless of the period of employment, whether the employment is financially compensated, volunteered or performed for the purpose of any government or education benefit;
- (5) "Institution of higher education" means a public or private:
 - (A) Community college;
 - (B) College;
 - (C) University; or
 - (D) Independent postsecondary institution;
- (6) "Law enforcement agency of any institution of higher education" means any campus law enforcement arrangement authorized by § 49-7-118;
- (7) "Local law enforcement agency" means:
 - (A) Within the territory of a municipality, the municipal police department;
 - (B) Within the territory of a county having a metropolitan form of government, the metropolitan police department;
or
 - (C) Within the unincorporated territory of a county, the sheriff's office;
- (8) "Minor" means any person under eighteen (18) years of age;
- (9) "Month" means a calendar month;
- (10) "Offender" means both sexual offender and violent sexual offender, unless otherwise designated. An offender who qualifies both as a sexual offender and a violent sexual offender shall be considered a violent sexual offender;

(11) "Parent" means any biological parent, adoptive parent or step-parent, and includes any legal or court-appointed guardian or custodian; however, "parent" shall not include step-parent if the offender's victim was a minor less than thirteen (13) years of age;

(12) "Primary residence" means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for five (5) consecutive days;

(13) "Register" means the initial registration of a sexual or violent sexual offender, or the reregistration of a sexual offender or violent sexual offender after deletion or termination from the SOR;

(14) "Registering agency" means a sheriff's office, municipal police department, metropolitan police department, campus law enforcement agency, the Tennessee department of correction, a private contractor with the Tennessee department of correction or the board;

(15) "Relevant information deemed necessary to protect the public" means that information set forth in § 40-39-206(d)(1)-(15);

(16) "Report" means appearance before the proper designated law enforcement agency for any of the purposes set out in this part;

(17) "Resident" means any person who abides, lodges, resides or establishes any other living accommodations in this state, including establishing a physical presence in this state;

(18) "Secondary residence" means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for a period of fourteen (14) or more days in the aggregate during any calendar year and that is not the person's primary residence; for a person whose primary residence is not in this state, a place where the person is employed, practices a vocation or is enrolled as a student for a period of fourteen (14) or more days in the aggregate during any calendar year; or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and that is not the person's primary residence, including any out-of-state address;

(19) "Sexual offender" means a person who has been convicted in this state of committing a sexual offense or has another qualifying conviction;

(20) "Sexual offense" means:

(A) The commission of any act that, on or after November 1, 1989, constitutes the criminal offense of:

(i) Sexual battery, under § 39-13-505;

(ii) Statutory rape, under § 39-13-506, if the defendant has one (1) or more prior convictions for mitigated statutory rape under § 39-13-506(a), statutory rape under § 39-13-506(b) or aggravated statutory rape under § 39-13-506(c);

(iii) Aggravated prostitution, under § 39-13-516, provided the offense occurred prior to July 1, 2010;

(iv) Sexual exploitation of a minor, under § 39-17-1003;

(v) False imprisonment where the victim is a minor, under § 39-13-302, except when committed by a parent of the minor;

(vi) Kidnapping, where the victim is a minor, under § 39-13-303, except when committed by a parent of the minor;

(vii) Indecent exposure, under § 39-13-511, upon a third or subsequent conviction;

(viii) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class D felony, Class E felony or a misdemeanor;

(ix) Spousal sexual battery, for those committing the offense prior to June 18, 2005, under former § 39-13-507 [repealed];

(x) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (20)(A);

(xi) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (20)(A);

(xii) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (20)(A);

(xiii) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (20)(A);

(xiv) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (20)(A);

(xv) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (20)(A);

(xvi) Aggravated statutory rape, under § 39-13-506(c); or

(xvii) Soliciting sexual exploitation of a minor -- exploitation of a minor by electronic means, under § 39-13-529;
or

(B) The commission of any act, that prior to November 1, 1989, constituted the criminal offense of:

(i) Sexual battery, under § 39-2-607 [repealed];

(ii) Statutory rape, under § 39-2-605 [repealed], only if the facts of the conviction satisfy the definition of aggravated statutory rape;

(iii) Assault with intent to commit rape or attempt to commit sexual battery, under § 39-2-608 [repealed];

(iv) Incest, under § 39-4-306 [repealed];

(v) Use of a minor for obscene purposes, under § 39-6-1137 [repealed];

(vi) Promotion of performance including sexual conduct by a minor, under § 39-6-1138 [repealed];

(vii) Criminal sexual conduct in the first degree, under § 39-3703 [repealed];

(viii) Criminal sexual conduct in the second degree, under § 39-3704 [repealed];

(ix) Criminal sexual conduct in the third degree, under § 39-3705 [repealed];

(x) Kidnapping where the victim is a minor, under § 39-2-303 [repealed], except when committed by a parent of the minor;

(xi) Solicitation, under § 39-1-401 [repealed] or § 39-118(b) [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xii) Attempt, under § 39-1-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xiii) Conspiracy, under § 39-1-601 [repealed] or § 39-1104 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B); or

(xiv) Accessory before or after the fact, or aider and abettor, under title 39, chapter 1, part 3 [repealed], to any of the offenses enumerated in this subdivision (20)(B);

(21) "SOR" means the TBI's centralized record system of offender registration, verification and tracking information;

(22) "Student" means a person who is enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning;

(23) "TBI" means the Tennessee bureau of investigation;

(24) "TBI registration form" means the Tennessee sexual offender registration, verification and tracking form;

(25) "TDOC" means the Tennessee department of correction;

(26) "TIES" means the Tennessee information enforcement system;

(27) "Violent sexual offender" means a person who has been convicted in this state of committing a violent sexual offense or has another qualifying conviction;

(28) "Violent sexual offense" means the commission of any act that constitutes the criminal offense of:

(A) Aggravated rape, under § 39-2-603 [repealed] or § 39-13-502;

(B) Rape, under § 39-2-604 [repealed] or § 39-13-503;

(C) Aggravated sexual battery, under § 39-2-606 [repealed] or § 39-13-504;

(D) Rape of a child, under § 39-13-522;

(E) Attempt to commit rape, under § 39-2-608 [repealed];

(F) Aggravated sexual exploitation of a minor, under § 39-17-1004;

(G) Especially aggravated sexual exploitation of a minor under § 39-17-1005;

(H) Aggravated kidnapping where the victim is a minor, under § 39-13-304, except when committed by a parent of the minor;

(I) Especially aggravated kidnapping where the victim is a minor, under § 39-13-305, except when committed by a parent of the minor;

(J) Sexual battery by an authority figure, under § 39-13-527;

(K) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class B or Class C felony;

(L) Spousal rape, under § 39-13-507(b)(1) [repealed];

(M) Aggravated spousal rape, under § 39-13-507(c)(1) [repealed];

- (N) Criminal exposure to HIV, under § 39-13-109(a)(1);
 - (O) Statutory rape by an authority figure, under § 39-13-532;
 - (P) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (28);
 - (Q) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (28);
 - (R) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (28);
 - (S) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (28);
 - (T) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (28);
 - (U) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (28);
 - (V) Incest, under § 39-15-302;
 - (W) Aggravated rape of a child under § 39-13-531;
 - (X) Aggravated prostitution, under § 39-13-516, provided the offense occurs on or after July 1, 2010; or
 - (Y) Trafficking for sexual servitude, under § 39-13-309; and
- (29) "Within forty-eight (48) hours" means a continuous forty-eight-hour period, not including Saturdays, Sundays or federal or state holidays.

40-39-203. Offender registration -- Registration forms -- Contents.

(a) (1) Within forty-eight (48) hours of establishing or changing a primary or secondary residence, establishing a physical presence at a particular location, becoming employed or practicing a vocation or becoming a student in this state, the offender shall register or report in person, as required by this part. Likewise, within forty-eight (48) hours of release on probation or any alternative to incarceration, excluding parole, the offender shall register or report in person, as required by this part.

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

(3) An offender who resides and is registered in this state and who intends to move out of this state shall, within forty-eight (48) hours after moving to another state or within forty-eight (48) hours of becoming reasonably certain of the intention to move to another state, register or report to the offender's designated law enforcement agency the address at which the offender will reside in the new jurisdiction.

(4) Within forty-eight (48) hours of a change in any other information given to the registering agency by the offender that is contained on the registration form, the offender must report the change to the registering agency.

(5) Within forty-eight (48) hours of being released from probation or parole, an offender must report to the proper law enforcement agency, which shall then become the registering agency and take over registry duties from the board.

(6) Within forty-eight (48) hours of a material change in employment or vocation status, the offender shall report the change to the person's registering agency. For purposes of this subdivision (a)(6), "a material change in employment or vocational status" includes being terminated involuntarily from the offender's employment or vocation, voluntarily terminating the employment or vocation, taking different employment or the same employment at a different location, changing shifts or substantially changing the offender's hours of work at the same employment or vocation, taking additional employment, reducing the offender's employment or any other change in the offender's employment or vocation that differs from that which the offender originally registered. For a change in employment or vocational status to be considered a material one, it must remain in effect for five (5) consecutive days or more.

(7) Within three (3) days, excluding holidays, of an offender changing the offender's electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, whether within or without this state, the offender shall report the change to the offender's designated law enforcement agency.

(b) (1) An offender who is incarcerated in this state in a local, state or federal jail or a private penal institution shall, within forty-eight (48) hours prior to the offender's release, register or report in person, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3), as follows:

(A) If incarcerated in a state, federal or private penal facility, with the warden or the warden's designee; or

(B) If incarcerated in a local jail, with the sheriff or the sheriff's designee.

(2) After registering or reporting with the incarcerating facility as provided in subdivision (b)(1), an offender who is incarcerated in this state in a local, state or federal jail or a private penal institution shall, within forty-eight (48) hours after the offender's release from the incarcerating institution, report in person to the offender's registering agency, unless the place of incarceration is also the person's registering agency.

(c) An offender from another state, jurisdiction or country who has established a primary or secondary residence within this state or has established a physical presence at a particular location shall, within forty-eight (48) hours of establishing residency or a physical presence, register or report in person with the designated law enforcement agency, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3).

(d) (1) An offender from another state, jurisdiction or country who is not a resident of this state shall, within forty-eight (48) hours of employment, commencing practice of a vocation or becoming a student in this state, register

or report in person, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3), with:

(A) The sheriff in the county or the chief of police in the municipality within this state where the offender is employed or practices a vocation; or

(B) The law enforcement agency or any institution of higher education, or if not applicable, the designated law enforcement agency with jurisdiction over the campus, if the offender is employed or practices a vocation or is a student.

(2) Within forty-eight (48) hours of an offender from another state, jurisdiction or country who is not a resident of this state making a material change in the offender's vocational or employment or vocational status within this state, the offender shall report the change to the person's registering agency. For purposes of this subdivision (d)(2), "a material change in employment or vocational status" includes being terminated involuntarily from the offender's employment or vocation, voluntarily terminating the employment or vocation, taking different employment or the same employment at a different location, changing shifts or substantially changing the offender's hours of work at the same employment or vocation, taking additional employment, reducing the offender's employment or any other change in the offender's employment or vocation that differs from that which the offender originally registered. For a change in employment or vocational status to be considered a material one, it must remain in effect for five (5) consecutive days or more.

(e) An offender from another state, jurisdiction or country who becomes a resident of this state, pursuant to the Interstate Compact for Supervision of Adult Offenders, compiled in title 40, chapter 28, part 4, shall, within forty-eight (48) hours of entering the state, register or report in person with the board, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3), in addition to the requirements of title 40, chapter 28, part 4 and the specialized conditions for sex offenders from the board.

(f) Offenders who do not maintain either a primary or secondary residence, as defined in this part, shall be considered homeless and are subject to the registration requirements of this part. Offenders who do not maintain either a primary or secondary residence shall be required to report to their registering agency monthly for so long as they do not maintain either a primary or secondary residence.

(g) Offenders who were previously required to register or report under former title 40, chapter 39, part 1 [repealed], shall register or report in person with the designated law enforcement agency by August 31, 2005. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from this requirement, as otherwise provided by this part.

(h) An offender who indicates to a designated law enforcement agency on the TBI registration form the offender's intent to reside in another state, jurisdiction or country and who then decides to remain in this state shall, within forty-eight (48) hours of the decision to remain in the state, report in person to the designated law enforcement agency and update all information pursuant to subsection (i).

(i) TBI registration forms shall require the registrant's signature and disclosure of the following information, under penalty of perjury, pursuant to § 39-16-702(b)(3):

(1) Complete name and all aliases, including, but not limited to, any names that the offender may have had or currently has by reason of marriage or otherwise, including pseudonyms and ethnic or tribal names;

(2) Date and place of birth;

(3) Social security number;

(4) A photocopy of a valid driver license, or if no valid driver license has been issued to the offender, a photocopy of any state or federal government issued identification card;

(5) For an offender on supervised release, the name, address and telephone number of the registrant's probation or parole officer or other person responsible for the registrant's supervision;

(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;

(7) Name of any current employers and length of employment, including physical addresses and phone numbers;

(8) Current physical address and length of residence at that address, which shall include any primary or secondary residences. For the purpose of this section, a post office box number shall not be considered an address;

(9) Mailing address, if different from physical address;

(10) Any vehicle, mobile home, trailer or manufactured home used or owned by an offender, including descriptions, vehicle information numbers and license tag numbers;

(11) Any vessel, live-aboard vessel or houseboat used by an offender, including the name of the vessel, description and all identifying numbers;

(12) Name and address of each institution of higher education in this state where the offender is employed or practices a vocation or is a student;

(13) Race and gender;

(14) Name, address and phone number of offender's closest living relative;

(15) Whether victims of the offender's convictions are minors or adults, the number of victims and the correct age of the victim or victims and of the offender at the time of the offense or offenses, if the ages are known;

(16) Verification by the TBI or the offender that the TBI has received the offender's DNA sample;

(17) A complete listing of the offender's electronic mail address information or any instant message, chat or other Internet communication name or identity that the person uses or intends to use;

(18) Whether any minors reside in the primary or secondary residence;

(19) (A) Any other registration, verification and tracking information, including fingerprints and a current photograph of the offender, vehicles and vessels, as referred to in subdivisions (i)(10) and (i)(11), as may be required by rules promulgated by the TBI, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(B) By January 1, 2007, the TBI shall promulgate and disseminate to all applicable law enforcement agencies, correctional institutions and any other agency that may be called upon to register an offender, rules establishing standardized specifications for the photograph of the offender required by subdivision (i)(19)(A). The rules shall specify that the photograph or digital image submitted for each offender must conform to the following compositional specifications or the entry will not be accepted for use on the registry and the agency will be required to resubmit the photograph:

(i) Head Position:

(a) The person being photographed must directly face the camera;

(b) The head of the person should not be tilted up, down or to the side; and

(c) The head of the person should cover about fifty percent (50%) of the area of the photo;

(ii) Background:

(a) The person being photographed should be in front of a neutral, light-colored background; and

(b) Dark or patterned backgrounds are not acceptable;

(iii) The photograph must be in focus;

(iv) Photos in which the person being photographed is wearing sunglasses or other items that detract from the face are not permitted; and

(v) Head Coverings and Hats:

(a) Photographs of applicants wearing head coverings or hats are only acceptable due to religious beliefs, and even then, may not obscure any portion of the face of the applicant; and

(b) Photos of applicants with tribal or other headgear not specifically religious in nature are not permitted;

(20) Copies of all passports and immigration documents; and

(21) Professional licensing information that authorizes an offender to engage in an occupation or carry out a trade or business.

(j) (1) Notwithstanding the registration deadlines otherwise established by this section, any person convicted of a sexual offense or violent sexual offense in this state or who has another qualifying conviction as defined in § 40-39-202, but who is not required to register for the reasons set out in subdivision (j)(2), shall have until August 1, 2007, to register as a sexual offender or violent sexual offender in this state.

(2) Subdivision (j)(1) shall apply to offenders:

(A) Whose convictions for a sexual offense or violent sexual offense occurred prior to January 1, 1995;

(B) Who were not on probation, parole or any other alternative to incarceration for a sexual offense or prior sexual offense on or after January 1, 1995;

(C) Who were discharged from probation, parole or any other alternative to incarceration for a sexual offense or violent sexual offense prior to January 1, 1995; or

(D) Who were discharged from incarceration without supervision for a sexual offense or violent sexual offense prior to January 1, 1995.

(k) No later than the third day after an offender's initial registration, the registration agency shall send by the United States postal service the original signed TBI registration form containing information required by subsection (i) to TBI headquarters in Nashville.

(l) The offender's signature on the TBI registration form creates the presumption that the offender has knowledge of the registration, verification and tracking requirements of this part.

(m) Registry information regarding all registered offender's electronic mail address information, any instant message, chat or other Internet communication name or identity information may be electronically transmitted by the TBI to a business or organization that offers electronic communication or remote computing services for the purpose of prescreening users or for comparison with information held by the requesting business or organization. In order to obtain the information from the TBI, the requesting business or organization that offers electronic communication or remote computing services shall agree to notify the TBI forthwith when a comparison indicates that any such registered sex offender's electronic mail address information, any instant message, chat or other Internet communication name or identity information is being used on their system. The requesting business or organization shall also agree that the information will not be further disseminated.

(n) If the offender's DNA sample has not already been collected pursuant to § 40-35-321 or any other law and received by the TBI, the offender's DNA sample shall be taken by the registering agency at the time the offender registers or at the offender's next scheduled registration or reporting and sent to the TBI.

(o) An offender who registers or reports as required by this section prior to July 1, 2008, shall provide the additional information on the registration form required by this section at the offender's next scheduled registration or reporting date.

40-39-204. Entering required data on SOR for verification, identification, and enforcement -- Reporting to update information or registration form -- Administrative costs -- TBI as central repository -- Tolling of registration requirements -- Exemptions.

(a) The TBI shall maintain and make available a connection to the SOR for all criminal justice agencies with TIES internet capabilities, by which registering agencies shall enter original, current and accurate data required by this part. The TBI shall provide viewing and limited write access directly to the SOR through the TIES internet to registering agencies for the entry of record verification data, changes of residence, employment or other pertinent data required by this part and to assist in offender identification. Registering agencies should immediately, but in no case to exceed twelve (12) hours from registration, enter all data received from the offender as required by the TBI and § 40-39-203(i), into the TIES internet for the enforcement of this part by TBI, designated law enforcement agencies, TDOC, private contractors with TDOC and the board.

(b) Violent sexual offenders shall report in person during the months of March, June, September, and December of each calendar year, to the designated law enforcement agency, on a date established by such 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 in the TBI registration form. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from the in-person reporting and fingerprinting, as otherwise provided by this part. At the time of the violent offender's initial registration or initial reporting date for the calendar year, the violent sexual offender shall pay the specified administrative costs, not to exceed one hundred fifty dollars (\$150), one hundred dollars (\$100) of which shall be retained by the designated law enforcement agency to be used for the purchase of equipment, to defray personnel and maintenance costs and any other expenses incurred as a result of the implementation of this part. The remaining fifty dollars (\$50.00) shall be submitted by the registering agency to the TBI for maintenance, upkeep and employment costs, as well as any other expenses incurred as a result of the implementation of this part. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from paying the administrative cost as otherwise provided by this part.

(c) Once a year, all sexual offenders shall report in person, no earlier than seven (7) calendar days before and no later than seven (7) calendar days after the offender's date of birth, to the designated law enforcement agency to update the offender's fingerprints, palm prints and photograph, as determined necessary by the agency, to verify the continued accuracy of the information in the TBI registration form and to pay the specified administrative costs, not to exceed one hundred fifty dollars (\$150), one hundred dollars (\$100) of which shall be retained by the designated law enforcement agency to be used for the purchase of equipment, to defray personnel and maintenance costs and any other expenses incurred as a result of the implementation of this part. The remaining fifty dollars (\$50.00) shall be submitted by the registering agency to the TBI for

maintenance, upkeep and employment costs, as well as any other expenses incurred as a result of the implementation of this part. Offenders whose initial registration occurs after the annual reporting period shall be required to pay the administrative costs at the time of the initial registration. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from the in-person reporting and fingerprinting and administrative cost as otherwise provided by this part. However, if an offender is released or discharged from a nursing home, assisted living facility or mental health institution or is no longer continuously confined to home or a health care facility due to mental or physical disabilities, the offender shall, within forty-eight (48) hours, register in person with the designated law enforcement agency, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3). If the offender has previously registered prior to the release or discharge, the offender shall, within forty-eight (48) hours, report in person to the designated law enforcement agency and update all information pursuant to this section.

(d) Within three (3) days after the offender's verification, the designated law enforcement agency with whom the offender verified shall send by United States postal service the original signed TBI registration form containing information required by § 40-39-203(i) to TBI headquarters in Nashville. The TBI shall be the state central repository for all original TBI registration forms and any other forms required by § 40-39-207 that are deemed necessary for the enforcement of this part. The designated law enforcement agency shall retain a duplicate copy of the TBI registration form as a part of the business records for that agency.

(e) If a person required to register under this part is reincarcerated for another offense or as the result of having violated the terms of probation, parole, conditional discharge or any other form of alternative sentencing, the offender shall immediately report the offender's status as a sexual offender or violent sexual offender to the facility where the offender is incarcerated or detained and notify the offender's appropriate registering agency, if different, that the offender is currently being detained or incarcerated. Registration, verification and tracking requirements for such persons are tolled during the subsequent incarceration. Within forty-eight (48) hours of the release from any subsequent reincarcerations, the offender shall register with the appropriate designated law enforcement agency. Likewise, if a person who is required to register under this part is deported from this country, the registration, verification and tracking requirements for such persons are tolled during the period of deportation. Within forty-eight (48) hours of the return to this state after deportation, the offender shall register with the appropriate designated law enforcement agency.

(f) Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities shall be exempted from the in-person reporting, fingerprinting and administrative cost requirements; however, it shall be the responsibility of the offender, the offender's guardian, the person holding the offender's power of attorney or, in the absence thereof, the administrator of the facility, to report any changes in the residential status to TBI headquarters in Nashville by United States postal service. Further, if an offender is released or discharged from a nursing home, assisted living facility, mental health institution or is no longer continuously

confined to home or a health care facility due to mental or physical disabilities, the offender shall, within forty-eight (48) hours, register in person with the designated law enforcement agency, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3). If the offender has previously registered prior to the release or discharge, the offender shall, within forty-eight (48) hours, report in person to the designated law enforcement agency and update all information pursuant to this section.

(g) Offenders who do not maintain either a primary or secondary residence, as defined in this part, shall be considered homeless, and are subject to the reporting requirements of this part. The offenders who are considered homeless shall be required to report to their registering agency monthly. By the authority established in § 40-39-206(e), the TBI shall develop tracking procedures for the continued verification and tracking of these offenders in the interest of public safety.

40-39-205. Creation and distribution of forms -- Acknowledgement forms.

(a) TBI registration forms shall be designed, printed and distributed by and at the expense of the TBI. These forms shall include instructions for compliance with this part and a statement of understanding and acknowledgment of those instructions to be signed by the offender. TBI registration forms shall be available from registering agencies, parole officers, probation officers and other public officers and employees assigned responsibility for the supervised release of convicted felons into the community.

(b) It shall be the duty of the offender's designated registering agency, its representatives and designees, including any district attorney general's criminal investigator, to verify the accuracy and completeness of all information contained in the offender's SOR.

(c) The officer or employee responsible for supervising an offender who has been released on probation, parole or any other alternative to incarceration shall:

(1) Promptly obtain the offender's signed statement acknowledging that the named officer or employee has:

(A) Fully explained, and the offender understands, the registration, verification and tracking requirements and sanctions of this part and the current sex offender directives established by the board;

(B) Provided the offender with a blank TBI registration form and assisted the offender in completing the form; and

(C) Obtained fingerprints, palm prints and photographs of the offender, and vehicles and vessels, as determined necessary by the agency;

(2) Immediately, but in no case to exceed twelve (12) hours from registration, enter all data received from the offender, as required by the TBI and § 40-39-203(i), into the TIES internet. The officer or employee shall, within three (3) days, send by United States postal service the signed and completed TBI registration form to TBI headquarters in Nashville. The photographs of the offender, vehicles and vessels, and the fingerprints should also be sent by United States postal service within three (3) days, if not

electronically submitted to TBI headquarters in Nashville. The registering agency shall retain a duplicate copy of the TBI registration form as a part of the business records for that agency.

(d) Not more than forty-eight (48) hours prior to the release of an offender from incarceration, with or without supervision, the warden of the correctional facility or the warden's designee, or sheriff of the jail or the sheriff's designee, shall obtain the offender's signed statement acknowledging that the official has fully explained, and the offender understands, the registration, verification and tracking requirements and sanctions of this part. If the offender is to be released with or without any type of supervision, the warden of the correctional facility or the warden's designee, or sheriff of the jail or the sheriff's designee, shall assist the offender in completing a TBI registration form. The warden or the warden's designee, or the sheriff or the sheriff's designee, shall also obtain fingerprints, palm prints and photographs of the offender, vehicles and vessels, as determined necessary by the agency. The official shall send by United States postal service the signed and completed TBI registration form to TBI headquarters in Nashville within three (3) days of the release of the offender. The photographs of the offender, vehicles and vessels, and the fingerprints should also be sent by United States postal service within three (3) days, if not electronically submitted to TBI headquarters in Nashville.

(e) If the offender is placed on unsupervised probation, the court shall fully explain to the offender, on the court record, the registration, verification and tracking requirements and sanctions of this part. The court shall then order the offender to report within forty-eight (48) hours, in person, to the appropriate registering agency to register as required by the provisions of this part.

(f) Through press releases, public service announcements or through other appropriate public information activities, the TBI shall attempt to ensure that all offenders, including those who move into this state, are informed and periodically reminded of the registration, verification and tracking requirements and sanctions of this part.

40-39-206. Centralized record system -- Reporting -- Violations -- Confidentiality of certain registration information -- Immunity from liability -- Public information regarding offenders.

(a) Using information received or collected pursuant to this part, the TBI shall establish, maintain and update a centralized record system of offender registration, verification and tracking information. The TBI may receive information from any credible source and may forward the information to the appropriate law enforcement agency for investigation and verification. The TBI shall promptly report current sexual offender registration, verification and tracking information to the identification division of the federal bureau of investigation.

(b) Whenever there is a factual basis to believe that an offender has not complied with the provisions of this part, pursuant to the powers enumerated in subsection (e), the TBI shall make the information available through the SOR to the district attorney general, designated law enforcement agencies and the probation officer, parole officer or other public officer or employee assigned responsibility for the offender's supervised release.

(c) Notwithstanding the provisions of any law to the contrary, officers and employees of the TBI, local law enforcement, law enforcement agencies of institutions of higher education, courts, probation and parole, the district attorneys general and their employees and other public officers and employees assigned responsibility for offenders' supervised release into the community shall be immune from liability relative to their good faith actions, omissions and conduct pursuant to this part.

(d) For any offender convicted in this state of a sexual offense or violent sexual offense, as defined by this part, that requires the offender to register pursuant to this part, the information concerning the registered offender set out in subdivisions (d)(1)-(15) shall be considered public information. If an offender from another state establishes a residence in this state and is required to register in this state pursuant to § 40-39-203, the information concerning the registered offender set out in subdivisions (d)(1)-(15) shall be considered public information regardless of the date of conviction of the offender in the other state. In addition to making the information available in the same manner as public records, the TBI shall prepare and place the information on the state's Internet home page. This information shall become a part of the Tennessee internet criminal information center when that center is created within the TBI. The TBI shall also establish and operate a toll-free telephone number, to be known as the "Tennessee Internet Criminal Information Center Hotline," to permit members of the public to call and inquire as to whether a named individual is listed among those who have registered as offenders as required by this part. The following information concerning a registered offender is public:

(1) The offender's complete name, as well as any aliases, including, but not limited to, any names that the offender may have had or currently has by reason of marriage or otherwise, including pseudonyms and ethnic or tribal names;

(2) The offender's date of birth;

(3) The sexual offense or offenses or violent sexual offense or offenses of which the offender has been convicted;

(4) The primary and secondary addresses, including the house number, county, city and ZIP code in which the offender resides;

(5) The offender's race and gender;

(6) The date of last verification of information by the offender;

(7) The most recent photograph of the offender that has been submitted to the TBI SOR;

(8) The offender's driver license number and issuing state or any state or federal issued identification number;

(9) The offender's parole or probation officer;

(10) The name and address of any institution of higher education in the state at which the offender is employed, carries on a vocation or is a student;

(11) The text of the provision of law or laws defining the criminal offense or offenses for which the offender is registered;

(12) A physical description of the offender, including height, weight, color of eyes and hair, tattoos, scars and marks;

(13) The criminal history of the offender, including the date of all arrests and convictions, the status of parole, probation or supervised release, registration status and the existence of any outstanding arrest warrants for the sex offender;

(14) The address of the offender's employer or employers; and

(15) The license plate number and a description of all of the offender's vehicles.

(e) The TBI has the authority to promulgate any necessary rules to implement and administer the provisions of this section. These rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

40-39-207. Request for termination of registration requirements -- Tolling of reporting period -- Review of decisions to deny termination of reporting requirements -- Lifetime registration.

(a) (1) No sooner than ten (10) years after termination of active supervision on probation, parole or any other alternative to incarceration, or no sooner than ten (10) years after discharge from incarceration without supervision, an offender required to register under this part may file a request for termination of registration requirements with TBI headquarters in Nashville.

(2) Notwithstanding subdivision (a)(1), if a court of competent jurisdiction orders that an offender's records be expunged pursuant to § 40-32-101, and the offense being expunged is an offense eligible for expunction under § 40-32-101, the TBI shall immediately remove the offender from the SOR and the offender's records shall be removed as provided in § 40-39-209.

(b) Upon receipt of the request for termination, the TBI shall review documentation provided by the offender and contained in the offender's file and the SOR, to determine whether the offender has complied with this part. In addition, the TBI shall conduct fingerprint-based state and federal criminal history checks, to determine whether the offender has been convicted of any additional sexual offenses, as defined in § 40-39-202, or violent sexual offenses, as defined in § 40-39-202.

(c) If it is determined that the offender has not been convicted of any additional sexual offenses or violent sexual offenses during the ten-year period and that the offender has substantially complied with this part and former part 1 of this chapter [repealed], the TBI shall remove the offender's name from the SOR and notify the offender that the offender is no longer required to comply with this part.

(d) If it is determined that the offender has been convicted of any additional sexual offenses or violent sexual offenses during the ten-year period or has not substantially complied with this part and former part 1 of this chapter [repealed], the TBI shall not remove the offender's name from the SOR and shall

notify the offender that the offender has not been relieved of the provisions of this part.

(e) If an offender is denied a termination request based on substantial noncompliance, the offender may petition again for termination no sooner than five (5) years after the previous denial.

(f) Immediately upon the failure of a sexual offender to register or otherwise substantially comply with the requirements established by this part, the running of the offender's ten-year reporting period shall be tolled, notwithstanding the absence or presence of any warrant or indictment alleging a violation of this part.

(g) An offender whose request for termination of registration requirements is denied by a TBI official may petition the chancery court of Davidson County or the chancery court of the county where the offender resides, if the county is in Tennessee, for review of the decision. The review shall be on the record used by the TBI official to deny the request. The TBI official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons the request was denied.

(1) An offender required to register under this part shall continue to comply with the registration, verification and tracking requirements for the life of that offender, if that offender:

(A) Has one (1) or more prior convictions for a sexual offense, as defined in § 40-39-202, regardless of when the conviction or convictions occurred; or

(B) Has been convicted of a violent sexual offense, as defined in § 40-39-202.

(2) For purposes of subdivision (g)(1)(A):

(A) "Prior conviction" means that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of a sexual offense prior to or at the time of committing another sexual offense;

(B) "Prior conviction" includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute a sexual offense. If an offense in a jurisdiction other than this state is not identified as a sexual offense in this state, it shall be considered a prior conviction if the elements of the offense are the same as the elements for a sexual offense; and

(C) "Separate period of incarceration or supervision" includes a sentence to any of the sentencing alternatives set out in § 40-35-104(c)(3)-(9). A sexual offense shall be considered as having been committed after a separate period of incarceration or supervision if the sexual offense is committed while the person was:

(i) On probation, parole or community correction supervision for a sexual offense;

(ii) Incarcerated for a sexual offense;

(iii) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for a sexual offense; or

(iv) On escape status from any correctional institution when incarcerated for a sexual offense.

(h) (1) Any offender required to register pursuant to this chapter because the offender was convicted of the offense of statutory rape under § 39-13-506 and the offense was committed prior to July 1, 2006, may file a request for termination of registration requirements with TBI headquarters in Nashville, if the offender would not be required to register if the offense was committed on or after July 1, 2006.

(2) Upon receipt of the request for termination, the TBI shall review documentation provided by the offender and contained in the offender's file and the SOR, to determine whether the offender would not be required to register if the offender committed the same offense on or after July 1, 2006. In addition, the TBI shall conduct fingerprint-based state and federal criminal history checks, to determine whether the offender has been convicted of any additional sexual offenses, as defined in § 40-39-202, or violent sexual offenses, as defined in § 40-39-202.

(3) If it is determined that the offender would not be required to register if the offense was committed on or after July 1, 2006, that the offender has not been convicted of any additional sexual offenses or violent sexual offenses and that the offender has substantially complied with this part and any previous versions of this part, the TBI shall remove the offender's name from the SOR and notify the offender that the offender is no longer required to comply with this part.

(4) If it is determined that the offender would still be required to register even if the statutory rape had been committed on or after July 1, 2006, or that the offender has been convicted of any additional sexual offenses or violent sexual offenses during the period of registration or has not substantially complied with this part and the previous versions of this part, the TBI shall not remove the offender's name from the SOR and shall notify the offender that the offender has not been relieved of this part.

(5) An offender whose request for termination of registration requirements is denied by a TBI official may petition the chancery court of Davidson County or the chancery court of the county where the offender resides, if the county is in this state, for review of the decision. The review shall be on the record used by the TBI official to deny the request. The TBI official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons the request was denied.

(i) (1) (A) If a person convicted of an offense was not required to register as an offender prior to August 1, 2007, because the person was convicted, discharged from parole or probation supervision or discharged from incarceration without supervision prior to January 1, 1995, for an offense now classified as a sexual offense, the person may file a request for termination of registration requirements with TBI headquarters in Nashville, no sooner than five (5) years from August 1, 2007, or the date the person first registered with the SOR, whichever date is later.

(B) The procedure, criteria for removal and other requirements of this section shall otherwise apply to an offender subject to removal after five (5) years as specified in subdivision (i)(1)(A).

(2) If a person convicted of an offense was not required to register as an offender prior to August 1, 2007, because the person was convicted, discharged from parole or probation supervision or discharged from incarceration without supervision prior to January 1, 1995, for an offense now classified as a violent sexual offense, the person shall continue to comply with the registration, verification and tracking requirements for the life of that offender.

(3) (A) If a person convicted of an offense was not required to register as an offender prior to July 1, 2010, for an offense now classified as a sexual offense, the person may file a request for termination of registration requirements with TBI headquarters in Nashville, no sooner than five (5) years from July 1, 2010, or the date the person first registered with the SOR, whichever date is later.

(B) The procedure, criteria for removal and other requirements of this section shall otherwise apply to an offender subject to removal after five (5) years as specified in subdivision (i)(3)(A).

(C) If a person convicted of an offense was not required to register as an offender prior to July 1, 2010, for an offense now classified as a violent sexual offense, the person shall continue to comply with the registration, verification and tracking requirements for the life of that offender.

40-39-208. Violations -- Penalty -- Venue -- Providing records for prosecution.

(a) It is an offense for an offender to knowingly violate any provision of this part. Violations shall include, but not be limited to:

(1) Failure of an offender to timely register or report;

(2) Falsification of a TBI registration form;

(3) Failure to timely disclose required information to the designated law enforcement agency;

(4) Failure to sign a TBI registration form;

(5) Failure to pay the annual administrative costs, if financially able;

(6) Failure to timely disclose status as a sexual offender or violent sexual offender to the designated law enforcement agency upon reincarceration;

(7) Failure to timely report to the designated law enforcement agency upon release after reincarceration;

(8) Failure to timely report to the designated law enforcement agency following reentry in this state after deportation; and

(9) Failure to timely report to the offender's designated law enforcement agency when the offender moves to another state.

(b) A violation of this part is a Class E felony. No person violating this part shall be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.

(c) The first violation of this part is punishable by a fine of not less than three hundred fifty dollars (\$350) and imprisonment for not less than ninety (90) days.

(d) A second violation of this part is punishable by a fine of not less than six hundred dollars (\$600) and imprisonment for not less than one hundred eighty (180) days.

(e) A third or subsequent violation of this part is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) and imprisonment for not less than one (1) year.

(f) A violation of this part is a continuing offense. If an offender is required to register pursuant to this part, venue lies in any county in which the offender may be found or in any county where the violation occurred.

(g) In a prosecution for a violation of this section, upon the request of a district attorney general, law enforcement agency, the board of probation and parole or its officers or a court of competent jurisdiction and for any lawful purpose permitted by this part, the records custodian of SOR shall provide the requesting agency with certified copies of specified records being maintained in the registry.

(h) The records custodian providing copies of records to a requesting agency, pursuant to subsection (g), shall attach the following certification:

**I, , HAVING BEEN APPOINTED BY THE DIRECTOR
OF THE TENNESSEE BUREAU OF INVESTIGATION AS CUSTODIAN
OF THE BUREAU'S CENTRALIZED RECORDS SYSTEM OF
SEXUAL AND VIOLENT SEXUAL OFFENDERS, REGISTRATION,
VERIFICATION AND TRACKING INFORMATION (SOR), HEREBY
CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE
RECORDS MAINTAINED WITHIN SAID REGISTRY.
SIGNATURE TITLE DATE
AFFIX THE BUREAU SEAL HERE**

(i) Sexual offender and violent 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.

40-39-209. Removing records from SOR.

Except as otherwise provided in § 40-39-207(a)-(d), no record shall be removed from the SOR, unless ordered by a court of competent jurisdiction as part of an expunction order pursuant to § 40-32-101, so long as the offense is eligible for expunction under § 40-32-101.

40-39-210. Death of offender.

Upon receipt of notice of the death of a registered offender, verified through the registering agency or TBI officials by obtaining a copy of the offender's certificate of death, by checking the social security death index or by obtaining a copy of an accident report, the TBI shall remove all data pertaining to the deceased offender from the SOR.

40-39-211. Residential and work restrictions.

(a) While mandated to comply with the requirements of this chapter, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, whose victim was a minor, shall knowingly establish a primary or secondary residence or any other living accommodation, knowingly obtain sexual offender treatment or attend a sexual offender treatment program or knowingly accept employment within one thousand feet (1,000') of the property line of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public.

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

(1) Reside within one thousand feet (1,000') of the property line on which the offender's former victims or the victims' immediate family members reside;

(2) Come within one hundred feet (100') of any of the offender's former victims, except as otherwise authorized by law; or

(3) Contact any of the offender's former victims or the victims' immediate family members without the consent of the victim or consent of the victim's parent or guardian if the victim is a minor being contacted by telephone, in writing, by electronic mail, Internet services or any other form of electronic communication, unless otherwise authorized by law.

(c) While mandated to comply with the requirements of this part, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, whose victim was a minor, shall knowingly reside with a minor. Notwithstanding this subsection (c), the offender may reside with a minor if the offender is the parent of the minor, unless one (1) of the following conditions applies:

(1) The offender's parental rights have been or are in the process of being terminated as provided by law; or

(2) Any minor or adult child of the offender was a victim of a sexual offense or violent sexual offense committed by the offender.

(d) (1) No sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall knowingly:

(A) Be upon or remain on the premises of any building or grounds of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when the

offender has reason to believe children under eighteen (18) years of age are present;

(B) Stand, sit idly, whether or not the offender is in a vehicle, or remain within one thousand feet (1,000') of the property line of any building owned or operated by any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when children under eighteen (18) years of age are present, while not having a reason or relationship involving custody of or responsibility for a child or any other specific or legitimate reason for being there; or

(C) Be in any conveyance owned, leased or contracted by a school, licensed day care center, other child care facility or recreation center to transport students to or from school, day care, child care, or a recreation center or any related activity thereof when children under eighteen (18) years of age are present in the conveyance.

(2) Subdivision (d)(1) shall not apply when the offender:

(A) Is a student in attendance at the school;

(B) Is attending a conference with school, day care, child care, park, playground or recreation center officials as a parent or legal guardian of a child who is enrolled in the school, day care center, other child care center or of a child who is a participant at the park, playground or recreation center and has received written permission or a request from the school's principal or the facility's administrator;

(C) Resides at a state licensed or certified facility for incarceration, health or convalescent care; or

(D) Is dropping off or picking up a child or children and the person is the child or children's parent or legal guardian who has provided written notice of the parent's offender status to the school's principal or a school administrator upon enrollment.

(3) The exemption provided in subdivision (d)(2)(B) shall not apply if the victim of the offender's sexual offense or violent sexual offense was a minor at the time of the offense and the victim is enrolled in the school, day care center, recreation center or other child care center that is participating in the conference or other scheduled event.

(e) Changes in the ownership or use of property within one thousand feet (1,000') of the property line of an offender's primary or secondary residence or place of employment that occur after an offender establishes residence or accepts employment shall not form the basis for finding that an offender is in violation of the residence restrictions of this section.

(f) A violation of this part is a Class E felony. No person violating this part shall be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.

(g) (1) The first violation of this part is punishable by a fine of not less than three hundred fifty dollars (\$350) and imprisonment for not less than ninety (90) days.

(2) A second violation of this part is punishable by a fine of not less than six hundred dollars (\$600) and imprisonment for not less than one hundred eighty (180) days.

(3) A third or subsequent violation of this part is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) and imprisonment for not less than one (1) year.

(4) A violation of this part due solely to a lack of the written permission required pursuant to subdivision (d)(2) shall be punishable by fine only.

(h) (1) While mandated to comply with the requirements of this part, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall establish a primary or secondary residence with two (2) or more other such offenders, or where two (2) or more other such offenders currently reside.

(2) No person, corporation or other entity shall knowingly permit more than three (3) sexual offenders, as defined in § 40-39-202, violent sexual offenders, as defined in § 40-39-202, or a combination thereof, while such offenders are mandated to comply with the requirements of this part, to establish a primary or secondary residence in any house, apartment or other habitation, as defined by § 39-14-401(1)(A), owned or under the control of such person, corporation or entity.

(3) The provisions of this subsection (h) shall not apply to any residential treatment facility in which more than three (3) sexual offenders, as defined in § 40-39-202, violent sexual offenders, as defined in § 40-39-202, or combination thereof, reside following sentencing to such facility by a court or placement in such facility by the board of probation and parole for the purpose of in-house sexual offender treatment; provided, the treatment facility complies with the guidelines and standards for the treatment of sexual offenders established by the sex offender treatment board pursuant to § 39-13-704.

40-39-212. Registration requirement.

(a) Upon the court's acceptance of a defendant's entry of a plea of guilty or a finding of guilt by a jury or judge after trial, and, notwithstanding the absence of a final sentencing and entry of a judgment of conviction, any defendant who is employed or practices a vocation, establishes a primary or secondary residence or becomes a student in this state and who enters a plea of guilty to a sexual offense as defined by § 40-39-202 or a violent sexual offense as defined by § 40-39-202, shall be required to register with a registering agency.

(b) Notwithstanding the absence of a final sentencing and entry of a judgment of conviction, any defendant who is employed or practices a vocation, establishes a primary or secondary residence or becomes a student in this state and who enters a plea of guilty to an offense in another state, county or jurisdiction that may result in a conviction of a sexual offense as defined by § 40-39-202 or a violent sexual offense as defined by § 40-39-202, shall be required to register with a registering agency.

(c) Upon the court's acceptance of a defendant's entry of a plea of guilty, and notwithstanding the absence of a final sentencing and entry of a judgment of conviction, any defendant from another state who enters a plea of guilty to an offense in this state that may result in a conviction of a sexual offense as defined by § 40-39-202 or a violent sexual offense as defined by § 40-39-202, shall be required to register with a registering agency.

(d) This part shall apply to offenders who received diversion under § 40-35-313 or its equivalent in any other jurisdiction.

40-39-213. Possession of offender identification required.

(a) Every offender required to register pursuant to this part who is a resident of this state, and who is eligible, shall be responsible for obtaining a valid driver license or photo identification card that has been properly designated by the department of safety pursuant to § 55-50-353. Every offender eligible to receive the license or identification card shall always have the license or identification card in the offender's possession. If the offender is ineligible to be issued a driver license or photo identification card, the department shall provide the offender some other form of identification card or documentation that, if it is kept in the offender's possession, will satisfy the requirements of this section and § 55-50-353; such identification must be kept in the offender's possession at all times. If any offender is determined to be indigent, an identification card or other documentation in lieu of an identification card shall be issued to the offender at no cost.

(b) A violation of this section is a Class E felony punishable by fine only of not less than two hundred fifty dollars (\$250).

(c) Every offender required to register pursuant to this part shall have obtained the documentation required by this section and presented it to the offender's registering agency no later than sixty (60) days from the date in which such person is required to register pursuant to this part.

40-39-214. Providing information in registry.

(a) Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, TBI shall provide all information in the registry about the offender that is made public pursuant to § 40-39-206(d) to the following:

(1) The United States attorney general, who shall include that information in the national sex offender registry or other appropriate databases;

(2) Appropriate law enforcement agencies, including probation and parole offices, and each school and public housing agency, in each area in which the individual resides, is an employee, establishes a physical presence or is a student;

(3) Each jurisdiction where the sex offender resides, is an employee, establishes a physical presence or is a student and each jurisdiction from or to which a change of residence, employment or student status occurs;

(4) Any agency responsible for conducting employment-related background checks;

(5) Social service entities responsible for protecting minors in the child welfare system;

(6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur; and

(7) Any organization, company or individual who requests such notifications pursuant to procedures established by TBI.

(b) In addition to the information provided pursuant to subsection (a), TBI shall provide all information in the registry about the offender, regardless of whether the information is made public pursuant to § 40-39-206(d), to the organization described in subdivision (a)(1) and appropriate law enforcement agencies.

(c) Notwithstanding subsection (a), TBI is not required to provide information to an organization or individual described in subdivision (a)(6) or (a)(7) more frequently than once every five (5) business days and an organization in subdivision (a)(6) or (a)(7) may elect to receive notification less frequently than five (5) business days.

40-39-215. Offenses -- Sexual offenders or violent sexual offenders -- Defense.

(a) While mandated to comply with the requirements of this chapter, it is an offense for a sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, whose victim was a minor, to knowingly:

(1) Pretend to be, dress as, impersonate or otherwise assume the identity of a real or fictional person or character or a member of a profession, vocation or occupation while in the presence of a minor or with the intent to attract or entice a minor to be in the presence of the offender;

(2) Engage in employment, a profession, occupation or vocation, regardless of whether compensation is received, that the offender knows or should know will cause the offender to be in direct and unsupervised contact with a minor; or

(3) Operate, whether authorized to do so or not, any vehicle or specific type of vehicle, including, but not limited to, an ice cream truck or emergency vehicle, for the purpose of attracting or enticing a minor to be in the presence of the offender.

(b) It is a defense to a violation of this section that the offender was the parent of the minor in the offender's presence.

(c) A violation of this section is a Class A misdemeanor.