Tennessee Statutes Relating to Domestic Violence, Assault, Stalking, and Sex Offenses

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20-14-101. Chapter definitions.

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

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose including following or stalking an employee to or from the employee's place of work; entering the workplace of an employee; following an employee during hours of employment; telephone calls to an employee; and correspondence with an employee including, but not limited to, the use of the public or private mails, interoffice mail, facsimile, or computer e-mail;

(2) "Credible threat of violence" means a knowing and willful statement or course of conduct which would cause a reasonable person to believe that such person is under threat of death or serious bodily injury, and which is intended to, and which actually causes, a person to believe that such person is under threat of death or serious bodily injury;

(3) "Employer" means any person or entity that employs one (1) or more employees and shall include the state and its political subdivisions and instrumentalities;

(4) "Labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relationship of employer and employee; and

(5) "Unlawful violence" means assault, aggravated assault, or stalking, as prohibited by §§ 39-13-101, 39-13-102, and 39-17-315, but shall not include lawful acts of self-defense or defense of others.

[Acts 2002, ch. 541, § 2.]

20-14-102. Temporary restraining order and injunction.

Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual, which can reasonably be construed to have been carried out at the employee's workplace, may seek a temporary restraining order and an injunction on behalf of the employer prohibiting further unlawful violence or threats of violence by that individual at the employee's workplace or while the employee is acting within the course and scope of employment with the employer. Nothing in this chapter shall be construed as authorizing a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are protected by the Constitution of Tennessee or the United States.

[Acts 2002, ch. 541, § 3.]

20-14-103. Jurisdiction.

(a) Except for proceedings involving a nonresident respondent, the court of competent jurisdiction of the county where the unlawful violence or credible threat of violence occurred shall have jurisdiction over all proceedings under this chapter.

(b) For proceedings under this chapter involving a nonresident respondent, the court of competent jurisdiction where the petitioner's workplace is located shall have jurisdiction, where the act involving

unlawful violence or a credible threat of unlawful violence meets the elements for personal jurisdiction provided for under § 20-2-223(a) (3) or (4).

[Acts 2002, ch. 541, § 4.]

20-14-104. Petition - Affidavit - Duration of temporary restraining order.

Upon filing a petition with the court for an injunction pursuant to this chapter, the petitioner may obtain a temporary restraining order if the petitioner also files an affidavit which, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent and that great or irreparable harm will result to an employee if such an injunction is not granted. The affidavit shall further show that the petitioner has conducted a reasonable investigation into the underlying facts which are the subject of the petition. A temporary restraining order granted under this chapter shall remain in effect, at the court's discretion, for a period not to exceed fifteen (15) days, unless otherwise modified or terminated by the court.

[Acts 2002, ch. 541, § 5.]

20-14-105. Hearing on petition – Response – Relevant testimony – Duration of injunction – Renewal of injunction.

Within ten (10) days of the filing of the petition under this chapter or as soon as practical thereafter, but in no case later than thirty (30) days after the filing of the petition, a hearing shall be held on the petition for the injunction. In the event a hearing cannot be scheduled within the county where the case is pending within the thirty-day period, it shall be scheduled and heard as soon as possible. The respondent may file a response which explains, excuses, justifies, or denies the alleged unlawful violence or credible threat of violence or may file a cross-complaint under this chapter. At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. If the judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence at the employee's workplace or while the employee is acting within the course and scope of employment with the employer. An injunction issued pursuant to this chapter shall have a duration of not more than three (3) years. At any time within the three-month period before the expiration of the injunction, the petitioner may apply for a renewal of the injunction by filing a new petition for an injunction pursuant to this chapter.

[Acts 2002, ch. 541, § 6.]

20-14-106. Service of petition, temporary restraining order, and notice of hearing.

Upon the filing of a petition for an injunction under the provisions of this chapter, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing on the petition.

[Acts 2002, ch. 541, § 7.]

20-14-107. Delivery of orders to law enforcement agencies – Availability of information to law enforcement officers.

The court shall order the petitioner or the attorney for the petitioner to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this chapter, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the petitioner. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

[Acts 2002, ch. 541, § 8.]

36-3-601. Part definitions.

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

(1) "Adult" means any person eighteen (18) years of age or older, or who is otherwise emancipated;

(2) (A) "Court," in counties having a population of not less than two hundred thousand (200,000) nor more than eight hundred thousand (800,000) according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;

(B) Notwithstanding the provisions of subdivision (2)(A), "court," in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000) according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;

(C) "Court," in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;

(D) "Court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivision (2)(A), (B) or (C) is not available;

(E) In counties having a population in excess of eight hundred thousand (800,000) according to the 1990 federal census or any subsequent federal census, "court" means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, "court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one (1) of the courts listed in subdivision (2)(A), (2)(B) or (2)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

(F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (2) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo.

(3) "Domestic abuse" means inflicting or attempting to inflict physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, or malicious damage to the personal property of the abused party;

(4) "Firearm" means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;

(5) "Petitioner" means the person alleging domestic abuse in a petition for order for protection;

(6) "Preferred response" means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;

(7) "Respondent" means the person alleged to have abused another in a petition for order for protection;

(8) "Victim" means any person who falls within the following categories:

(A) Adults or minors who are current or former spouses;

(B) Adults or minors who live together or who have lived together;

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship, [as used herein "dating" and "dated" do not include fraternization between two (2) individuals in a business or social context];

(D) Adults or minors related by blood or adoption;

(E) Adults or minors who are related or were formerly related by marriage; or

(F) Adult or minor children of a person in a relationship that is described in subdivisions (8)(A)-(E); and

(9) "Weapon" means a firearm or a device listed in § 39-17-1302(a)(1)-(7).

[Acts 1979, ch. 350, § 1; T.C.A., § 36-1201; Acts 1988, ch. 925, §§ 1, 2; 1991, ch. 380, § 1; 1994, ch. 764, § 1; 1995, ch. 507, § 3; 1996, ch. 684, § 1; 1997, ch. 96, § 1; 1997, ch. 211, § 1; 1997, ch. 459, §§ 1, 2; 1998, ch. 887, §§ 1, 2; 2001, ch. 96, §§ 1-3; 2002, ch. 646, §§ 1, 2.]

36-3-602. Application of part – Venue.

(a) Any victim who has been subjected to, or threatened with or placed in fear of, domestic abuse by an adult who falls into one of the categories set forth in § 36-3-601(8) (A)-(F) may seek relief under this part by filing a sworn petition alleging such domestic abuse by the respondent.

(b) Any petition filed by an unemancipated person under eighteen (18) years of age shall be signed by one (1) of that person's parents or by that person's guardian.

(c) Venue for a petition for an order of protection and all other matters relating to orders of protection shall be in the county where the respondent resides or the county in which the domestic abuse occurred.

[Acts 1979, ch. 350, § 3, § 16; T.C.A., § 36-1203; Acts 1987, ch. 270, § 1; 1997, ch. 211, § 2; 1997, ch. 459, § 2; 2002, ch. 646, § 3.]

36-3-603. Duration of protection order – Petition for protection order in divorce action.

(a) If an order of protection is ordered by a court and either the petitioner or respondent files a complaint for divorce, the order of protection shall remain in effect until the court in which the divorce action lies modifies or dissolves the order.

(b) Nothing in this section shall prohibit a petitioner from requesting relief under this section in a divorce action.

[Acts 1979, ch. 350, § 2; T.C.A., § 36-1202; Acts 1986, ch. 715, § 1.]

36-3-604. Forms.

(a) The office of the clerk of court shall provide forms which may be necessary to seek a protection order under this part. These forms shall be limited to use in causes filed under this part and they shall be made available to all who request assistance in filing a petition. The petitioner is not limited to the use of these forms and may present to the court any legally sufficient petition in whatever form. The office of the clerk shall also assist a person who is not represented by counsel by filling in the name of the court on the petition, by indicating where the petitioner's name shall be filled in, by reading through the petition form with the petitioner, and by rendering any other such assistance as is necessary for the filing of the petition. All such petitions which are filed pro se shall be liberally construed in favor of the petitioner.

(b) The administrative office of the courts, in consultation with the domestic violence coordinating council, shall, by October 1, 2001, develop a "Petition for Orders of Protection" form, an "Amended Order of Protection" form, an "Ex Parte Order of Protection" form and such other forms as are found to

be necessary and advisable. To the extent possible, the forms shall be uniform with those promulgated by surrounding states so that Tennessee forms may be afforded full faith and credit.

(c) These forms shall be used exclusively in all courts exercising jurisdiction over orders of protection.

[Acts 1979, ch. 350, § 4; 1982, ch. 935, § 1; T.C.A., § 36-1204; Acts 1987, ch. 270, §§ 2-5; 1995, ch. 410, § 2; 1995, ch. 456, § 6; 1996, ch. 684, § 5; 1997, ch. 211, § 3; 1998, ch. 715, § 1; 1999, ch. 344, § 3; 2000, ch. 638, § 2; 2001, ch. 319, § 1.]

36-3-605. Protection order – Extension – Hearing.

(a) Upon the filing of a petition under this part, the courts may immediately, for good cause shown, issue an ex parte order of protection. An immediate and present danger of domestic abuse to the petitioner shall constitute good cause for purposes of this section.

(b) Within fifteen (15) days of service of such order on the respondent under this part, a hearing shall be held, at which time the court shall either dissolve any ex parte order which has been issued, or shall, if the petitioner has proved the allegation of domestic abuse by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one (1) year unless a further hearing on the continuation of such order is requested by the respondent or the complainant in which case, on proper showing of cause, such order may be continued for a further definite period of one (1) year after which time a further hearing must be held for any subsequent one-year period. Any ex parte order of protection shall be in effect until the time of the hearing and, if the hearing is held within fifteen (15) days of service of such order, the ex parte order shall continue in effect until the entry of any subsequent order of protection issued pursuant to § 36-3-609. If no ex parte order of protection has been issued as of the time of the hearing, and the petitioner has proven the allegation of domestic abuse by a preponderance of the evidence, the court may, at that time, issue an order of protection for a definite period of time, not to exceed one (1) year.

(c) The court shall cause a copy of the petition and notice of the date set for the hearing on such petition, as well as a copy of any ex parte order of protection, to be served upon the respondent at least five (5) days prior to such hearing. Such notice shall advise the respondent that the respondent may be represented by counsel.

[Acts 1979, ch. 350, § 5; T.C.A., § 36-1205; Acts 1987, ch. 270, § 6; 1997, ch. 459, § 2, § 4, § 5; 1998, ch. 715, § 2; 2004, ch. 588, § 2.]

36-3-606. Scope of protection order.

(a) A protection order granted under this part to protect the petitioner from domestic abuse may include, but is not limited to:

(1) Directing the respondent to refrain from committing domestic abuse or threatening to commit domestic abuse against the petitioner or the petitioner's minor children;

(2) Prohibiting the respondent from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;

(4) Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;

(5) Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;

(6) Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties;

(7) Awarding financial support to the petitioner and such persons as the respondent has a duty to support. Except in cases of paternity, the court shall not have the authority to order financial support unless the petitioner and respondent are legally married. Such order may be enforced pursuant to chapter 5 of this title; or

(8) Directing the respondent to attend available counseling programs that address violence and control issues or substance abuse problems. A violation of a protection order or part of such order that directs counseling pursuant to this subpart may be punished as criminal or civil contempt. The provisions of § 36-3-610(a) apply with respect to a non-lawyer general sessions judge who holds a person in criminal contempt for violating this subpart.

(b) Relief granted pursuant to subdivisions (a)(4)-(8) shall be ordered only after the petitioner and respondent have been given an opportunity to be heard by the court.

(c) Any order of protection issued under this part shall include the statement of the maximum penalty which may be imposed pursuant to § 36-3-610 for violating such order.

(d) No order of protection made under this part shall in any manner affect title to any real property.

(e) If the petitioner is a victim as defined in § 36-3-601(8) (C), the provisions of subdivisions (a)(4) and (5) shall not apply to such petitioner.

(f) An order of protection issued pursuant to this part shall be valid and enforceable in any county of this state.

[Acts 1979, ch. 350, §§ 6-8; T.C.A., §§ 36-1206 - 36-1208; Acts 1987, ch. 270, §§ 7, 12; 1991, ch. 380, § 4; 1995, ch. 507, § 4; 1996, ch. 684, § 2; 1996, ch. 734, § 1, 2; 1997, ch. 459, §§ 2, 3; 2001, ch. 352, § 2.]

36-3-607. Bond not required.

The court shall not require the execution of a bond by the petitioner to issue any order of protection under this part.

[Acts 1979, ch. 350, § 9; T.C.A., § 36-1209.]

36-3-608. Duration of protection order – Modification.

(a) All orders of protection shall be effective for a fixed period of time, not to exceed one (1) year.

(b) The court may modify its order at any time upon subsequent motion filed by either party together with an affidavit showing a change in circumstances sufficient to warrant the modification.

[Acts 1979, ch. 350, § 10; T.C.A., § 36-1210.]

36-3-609. Copies of protection order to be issued.

(a) If the respondent has been served with a copy of the petition, notice of hearing, and any ex parte order issued pursuant to § 36-3-605(c), any subsequent order of protection shall be effective when the order is entered. For purposes of this section, an order shall be considered entered when such order is signed by:

(1) The judge and all parties or counsel;

(2) The judge and one party or counsel and contains a certificate of counsel that a copy of the proposed order has been served on all other parties or counsel; or

(3) The judge and contains a certificate of the clerk that a copy has been served on all other parties or counsel.

(b) As used in subsection (a), service upon a party or counsel shall be made by delivering to such party or counsel a copy of the order of protection, or by the clerk mailing it to the party's last known address. In the event the party's last known address is unknown and cannot be ascertained upon diligent inquiry, the certificate of service shall so state. Service by mail is complete upon mailing.

(c) Notwithstanding when an order is considered entered under subsection (a), if the court finds that the protection of the petitioner so requires, the court may order, in the manner provided by law or rule, that the order of protection take effect immediately.

(d) If the respondent has been served with a copy of the petition, notice of hearing, and any ex parte order issued pursuant to § 36-3-605(c), an order of protection issued pursuant to this part after a hearing shall be in full force and effect against the respondent from the time it is entered regardless of whether the respondent is present at the hearing.

(e) A copy of any order of protection and any subsequent modifications or dismissal shall be issued to the petitioner, the respondent, and the local law enforcement agencies having jurisdiction in the area where the petitioner resides. Upon receipt of the copy of the order of protection or dismissal from the issuing court or clerk's office, the local law enforcement agency shall immediately enter such order or dismissal in the Tennessee crime information system and take any necessary action to immediately transmit it to the national crime information center.

[Acts 1979, ch. 350, § 11; T.C.A., § 36-1211; Acts 1987, ch. 270, § 8; 1993, ch. 484, § 2; 2000, ch. 638, § 1; 2000, ch. 781, § 1; 2004, ch. 588, § 1.]

36-3-610. Violation of order or consent agreement – Civil or criminal contempt – Financial penalty.

(a) Upon violation of the order of protection or a court-approved consent agreement, the court may hold the defendant in civil or criminal contempt and punish the defendant in accordance with the law. A judge of the general sessions court shall have the same power as a court of record to punish the defendant for contempt when exercising jurisdiction pursuant to this part or when exercising concurrent jurisdiction with a court of record. A judge of the general sessions court who is not a licensed attorney shall appoint an attorney referee to hear charges of criminal contempt.

(b) In addition to the authorized punishments for contempt of court, the judge may assess any person who violates an order of protection or a court-approved consent agreement a civil penalty of fifty dollars ($50.00). The judge may further order that any support payment made pursuant to an order of protection or a court approved consent agreement be made under an income assignment to the clerk of court.

(c) Upon collecting the civil penalty imposed by subsection (b), the clerk shall, on a monthly basis, send the money to the state treasurer who shall deposit it in the domestic violence community education fund created by § 36-3-616.

[Acts 1979, ch. 350, § 12; T.C.A., § 36-1212; Acts 1989, ch. 297, § 1; 1994, ch. 858, § 1; 1995, ch. 127, § 1.]

36-3-611. Arrest for violation of protection order.

(a) An arrest for violation of an order of protection issued pursuant to this part may be with or without warrant. Any law enforcement officer shall arrest the respondent without a warrant if:

(1) The officer has proper jurisdiction over the area in which the violation occurred;

(2) The officer has reasonable cause to believe the respondent has violated or is in violation of an order for protection; and

(3) The officer has verified whether an order of protection is in effect against the respondent. If necessary, the police officer may verify the existence of an order for protection by telephone or radio communication with the appropriate law enforcement department.

(b) No ex parte order of protection can be enforced by arrest under this section until the respondent has been served with the order of protection or otherwise has acquired actual knowledge of such order.

[Acts 1979, ch. 350, § 13; T.C.A., § 36-1213; Acts 1987, ch. 270, § 9, § 10.]

36-3-612. Violation of protection order – Contempt – Hearing – Bond – Notice to protected party.

(a) A person arrested pursuant to this part shall be taken before a magistrate or the court having jurisdiction in the cause without unnecessary delay to answer a charge of contempt for violation of the order of protection, and the court shall:

(1) Notify the clerk of the court having jurisdiction in the cause to set a time certain for a hearing on the alleged violation of the order of protection within ten (10) working days after arrest, unless extended by the court on the motion of the arrested person;

(2) Set a reasonable bond pending the hearing on the alleged violation of the order of protection; and

(3) Notify the person who has procured the order of protection and direct the party to show cause why a contempt order should issue.

(b) Either the court that originally issued the order of protection or a court having jurisdiction over orders of protection in the county where the alleged violation of the order occurred shall have the authority and jurisdiction to conduct the contempt hearing required by subsection (a). If the court conducting the contempt hearing is not the same court that originally issued the order of protection, the court conducting the hearing shall have the same authority to punish a violation of the order of protection as the court originally issuing such order.

[Acts 1979, ch. 350, § 14; T.C.A., § 36-1214; Acts 1987, ch. 270, § 11; 1999, ch. 482, § 1.]

36-3-613. Leaving residence or use of necessary force – Right to relief unaffected.

(a) The petitioner's right to relief under this part is not affected by petitioner's leaving the residence or household to avoid domestic abuse.

(b) The petitioner's right to relief under this part is not affected by use of such physical force against the respondent as is reasonably believed to be necessary to defend the petitioner or another from imminent physical injury or domestic abuse.

[Acts 1979, ch. 350, § 15; T.C.A., § 36-1215; Acts 1997, ch. 459, § 2.]

36-3-614. Failure to contest paternity – Paternity tests and comparisons.

(a) Failure of a respondent to contest paternity in any proceeding commenced pursuant to this part shall not be construed as an admission of paternity by such respondent, nor shall such failure to contest be admissible as evidence against the respondent at any pending or subsequent paternity proceeding.

(b) Where paternity is contested in a proceeding commenced pursuant to this part, if the court orders the parties to submit to any tests and comparisons to determine parentage authorized by § 24-7-112, the court may grant an order of protection pending the outcome of any such tests and comparisons.

[Acts 1991, ch. 380, § 2.]

36-3-615. Notification to victim that family or household member arrested for assault may be released on bond.

(a) After a person has been arrested for assault pursuant to § 39-13-101, or aggravated assault pursuant to § 39-13-102, against a victim as defined in § 36-3-601(8), or domestic assault pursuant to § 39-13-111, the arresting officer shall inform the victim that the person arrested may be eligible to post bond for the offense and be released until the date of trial for the offense.

(b) Subsection (a) is solely intended to be a notification provision, and no cause of action is intended to be created thereby.

[Acts 1993, ch. 436, § 1, § 2; 1997, ch. 211, § 4; 2001, ch. 352, § 1.]

36-3-615. Notification to victim that family or household member arrested for assault may be released on bond.

(a) After a person has been arrested for assault pursuant to § 39-13-101, or aggravated assault pursuant to § 39-13-102, against a victim as defined in § 36-3-601(8), or domestic assault pursuant to § 39-13-111, the arresting officer shall inform the victim that the person arrested may be eligible to post bond for the offense and be released until the date of trial for the offense.

(b) Subsection (a) is solely intended to be a notification provision, and no cause of action is intended to be created thereby.

[Acts 1993, ch. 436, § 1, § 2; 1997, ch. 211, § 4; 2001, ch. 352, § 1.]

36-3-616. Domestic violence community education fund.

(a) There is hereby established a general fund reserve to be allocated through the general appropriations act, which shall be known as the domestic violence community education fund. Moneys from the fund shall be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues or interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(b) The general assembly shall appropriate, through the general appropriations act, moneys from the domestic violence community education fund to the department of human services. Such appropriations shall be specifically earmarked for the purposes set out in this section.

(c) All moneys appropriated from the domestic violence community education fund shall be used exclusively by the department to provide grants to the Tennessee task force against domestic violence. The commissioner of human services shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the distribution and use of the grant funds provided by it. Such grants shall be for the purpose of providing education, training and technical assistance to communities on domestic violence.

[Acts 1994, ch. 858, § 2.]

36-3-617. Protection order – Filing costs and assistance.

Notwithstanding any other provision of law to the contrary, the petitioner shall not be required to pay any filing fees, litigation taxes or any other costs associated with the filing, issuance, service or enforcement of an order of protection authorized by this part upon the filing of the petition. The judge shall assess court costs and litigation taxes at the hearing of the petition or upon dismissal of the petition. If the court, after the hearing, issues or extends an order of protection, petitioner's court costs and attorney fees shall be assessed against the respondent. The clerk of the court may provide order of protection petition forms to agencies that provide domestic violence assistance. Any agency that meets with a victim in person and recommends that an order of protection be sought shall assist the victim in the completion of the form petition for filing with the clerk. No agency shall be required to provide this assistance unless it has been provided with the appropriate forms by the clerk.

[Acts 1995, ch. 410, § 3; 1997, ch. 459, § 4; 2002, ch. 666, § 1.]

36-3-618. Purpose – Legislative intent.

The purpose of this part is to recognize the seriousness of domestic abuse as a crime and to assure that the law provides a victim of domestic abuse with enhanced protection from domestic abuse. A further purpose of this chapter is to recognize that in the past law enforcement agencies have treated domestic abuse crimes differently than crimes resulting in the same harm but occurring between strangers. Thus, the general assembly intends that the official response to domestic abuse shall stress enforcing the laws to protect the victim and prevent further harm to the victim, and the official response shall communicate the attitude that violent behavior is not excused or tolerated.

[Acts 1995, ch. 507, § 2.]

36-3-619. Officer response – Primary aggressor – Factors – Reports – Notice to victim of legal rights.

(a) If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic abuse, whether the crime is a misdemeanor or felony, or was committed within or without the presence of the officer, the preferred response of the officer is arrest.

(b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed a misdemeanor or felony, or if two (2) or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the primary aggressor. If the officer believes that all parties are equally responsible, the officer shall exercise such officer's best judgment in determining whether to arrest all, any or none of the parties.

(c) To determine who is the primary aggressor, the officer shall consider:

(1) The history of domestic abuse between the parties;

(2) The relative severity of the injuries inflicted on each person;

(3) Evidence from the persons involved in the domestic abuse;

(4) The likelihood of future injury to each person;

(5) Whether one (1) of the persons acted in self-defense; and

(6) Evidence from witnesses of the domestic abuse.

(d) A law enforcement officer shall not:

(1) Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel; or

(2) Base the decision of whether to arrest on:

(A) The consent or request of the victim; or

(B) The officer's perception of the willingness of the victim or of a witness to the domestic abuse to testify or participate in a judicial proceeding.

(e) When a law enforcement officer investigates an allegation that domestic abuse occurred, the officer shall make a complete report and file the report with the officer's supervisor in a manner that will permit data on domestic abuse cases to be compiled. If a law enforcement officer decides not to make an arrest or decides to arrest two (2) or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two (2) or more parties.

(f) Every month, the officer's supervisor shall forward the compiled data on domestic abuse cases to the administrative director of the courts.

(g) When a law enforcement officer responds to a domestic abuse call, the officer shall:

(1) Offer to transport the victim to a place of safety, such as a shelter or similar location or the residence of a friend or relative, unless it is impracticable for the officer to transport the victim, in which case the officer shall offer to arrange for transportation as soon as practicable;

(2) Advise the victim of a shelter or other service in the community; and

(3) Give the victim notice of the legal rights available by giving the victim a copy of the following statement:

> IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, you have the following rights:
>
> 1. You may file a criminal complaint with the district attorney general (D.A.).
>
> 2. You may request a protection order. A protection order may include the following:
>
> (A) An order preventing the abuser from committing further domestic abuse against you;
>
> (B) An order requiring the abuser to leave your household;
>
> (C) An order preventing the abuser from harassing you or contacting you for any reason;
>
> (D) An order giving you or the other parent custody of or visitation with your minor child or children;
>
> (E) An order requiring the abuser to pay money to support you and the minor children if the abuser has a legal obligation to do so; and
>
> (F) An order preventing the abuser from stalking you.
>
> The area crisis line is _____
>
> The following domestic abuse shelter/programs are available to you:
>
> _____
>
> _____

(4) Offer to transport the victim to the location where arrest warrants are issued in that city or county and assist the victim in obtaining an arrest warrant against the alleged abuser.

[Acts 1995, ch. 507, § 5; 1996, ch. 684, § 3, § 4.]

36-3-620. Seizure of weapons in possession of alleged domestic abuser.

(a) (1) If a law enforcement officer has probable cause to believe that a criminal offense involving domestic abuse against a victim, as defined in § 36-3-601, has occurred, the officer shall seize all weapons that are alleged to have been used by the abuser or threatened to be used by the abuser in the commission of a crime.

(2) Incident to an arrest for a crime involving domestic abuse against a victim, as defined in § 36-3-601, a law enforcement officer may seize a weapon that is in plain view of the officer or discovered pursuant to a consensual search, if necessary for the protection of the officer or other persons; provided, that a law enforcement officer is not required to remove a weapon such officer believes is needed by the victim for self defense.

(b) The provisions of § 39-17-1317, relative to the disposition of confiscated weapons, shall govern all weapons seized pursuant to this section that were used or threatened to be used by the abuser to commit the crime; provided, that if multiple weapons are seized, the court shall have the authority to confiscate only the weapon or weapons actually used or threatened to be used by the abuser to commit the crime. All other weapons seized shall be returned upon disposition of the case. Also, the officer shall append an inventory of all seized weapons to the domestic abuse report that the officer files with the officer's supervisor pursuant to § 36-3-619(e).

(c) The officer's supervisor shall include the appended information on seized weapons in the compilation of data that the officer's supervisor forwards to the administrative director of the court pursuant to § 36-3-619(f).

[Acts 1995, ch. 507, § 6; 1997, ch. 211, § 5; 1997, ch. 459, § 2.]

36-3-621. Reporting, by health care practitioners, injuries indicating domestic violence or domestic abuse.

(a) The general assembly finds that the incidence of domestic abuse and battering is on the rise in Tennessee and that measures should be taken to statistically document these incidents so that further study can be undertaken, and reasonable proposals to end the violence be put forth and considered in a rational and deliberate manner. The general assembly further finds that such statistics can be compiled only if health care practitioners are encouraged to report instances of domestic abuse when they examine abused patients. Such voluntary reporting will most likely occur if the law protects both the practitioner's duty to maintain confidentiality, with full civil immunity, and the patient from the types of violence, including acts of revenge, that may result when the batterer is reported. Such reporting system must be administered in a manner that ensures that abused patients are encouraged to seek adequate medical care for their physical and emotional injuries which result from acts of domestic abuse. The general assembly further finds that neither the law enforcement officials statewide, nor the courts, are adequately trained, or equipped by law, to fully address, or reduce, the incidence of domestic abuse and domestic violence.

(b) Any health care practitioner licensed or certified under title 63, who knows, or has reasonable cause to suspect, that a patient's injuries, whether or not such injuries cause a patient's death, are the result of domestic violence or domestic abuse, is encouraged to report to the department of health, office of health statistics, on a monthly basis. The report shall not disclose the name or identity of the patient, but should include the nature and extent of the patient's injuries, the substance in summary fashion of any statements made by the patient, including comments concerning past domestic abuse with the patient's current spouse or previous partner(s), that would reasonably give rise to suspicion of domestic abuse. The practitioner shall include any other information upon which the suspicion of domestic abuse is based.

(c) If a patient is treated by more than one (1) health practitioner, it is the duty of the supervising practitioner of the unit or department providing treatment, or of any other health practitioner designated

by the unit or department, to ensure that the reports are made on a timely basis and that duplicate reports of the incident are not made. In the event that the patient is referred to another health practitioner for treatment, the report shall be made only by the referring practitioner so that duplicate reports are not made.

(d) Any person making any report pursuant to this part, including an employee or agent of a health care practitioner licensed under title 63 in the reasonable performance of such person's duties and within the scope of their authority, shall be presumed to be acting in good faith and shall thereby be immune from any liability, civil or criminal, that might otherwise be incurred or imposed including administrative actions for licensure revocation. Any person alleging lack of good faith has the burden of proving bad faith. Such reporter shall have the same immunity with respect to participation in any judicial proceeding resulting from such report, or in any judicial or administrative proceeding in which the information so reported is subpoenaed, examined, or considered.

(e) (1) The identity of a person who reports domestic abuse, neglect, or exploitation, and the information so reported, as contemplated under this section are confidential and privileged and may not be revealed unless a court with jurisdiction under this part so orders for good cause shown.

(2) Except as otherwise provided in this section, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate, or acquiesce in the use of any list or the name of, or any information concerning, a practitioner participating in the voluntary reporting system.

(3) Nothing herein shall be construed to limit the duty of any person or entity to make any required report or to cooperate in any manner required by the provisions of the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1.

(4) A violation of this subsection is a Class B misdemeanor.

(f) On a form to be created jointly by the Tennessee task force against domestic violence and the Tennessee Medical Association, in consultation with the department of health, each health care practitioner should file a summary report on a monthly basis, of the incidents of domestic abuse, to the department of health, office of health statistics. The office of health statistics shall compile such statistics in a meaningful fashion, in consultation with the Tennessee task force against domestic violence, and by presenting the information for each of the twelve (12) community health agencies statewide. At the end of each calendar year, the office of health statistics shall file a report of the incidence of domestic abuse with the speakers of both houses, the Tennessee task force against domestic violence, and the Tennessee Medical Association.

[Acts 1996, ch. 835, § 1; 1997, ch. 459, § 2.]

36-3-622. Out-of-state protection orders.

(a) Any valid protection order related to abuse, domestic abuse, or domestic or family violence, issued by a court of another state, tribe or territory shall be afforded full faith and credit by the courts of this state and enforced as if it were issued in this state.

(b) (1) A protection order issued by a state, tribal or territorial court related to abuse, domestic abuse or domestic or family violence shall be deemed valid if the issuing court has jurisdiction over the parties and matter under the law of the issuing state, tribe or territory. There shall be a presumption in favor of validity where an order appears authentic on its face.

(2) For a foreign protection order to be valid in this state, the respondent must have been given reasonable notice and the opportunity to be heard before the order of the foreign state, tribe or territory was issued;

provided, that in the case of ex parte orders, notice and opportunity to be heard must have been given as soon as possible after the order was issued, consistent with due process.

(3) Failure to provide reasonable notice and the opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign protection order.

(c) A petitioner may present a certified copy of a foreign order of protection to a court having jurisdiction of orders of protection in the county in which the petitioner believes enforcement may be necessary. The clerk of such court shall receive the certified copies of any foreign order of protection and any supporting documents used to show the validity of such order and shall maintain such orders, along with any submitted documents. No costs, fees or taxes shall be charged by the clerks for this service. If an enforcement action is instituted in the court pursuant to any such order, the clerk shall file the order and shall otherwise treat the enforcement action as a case, except that all court costs, fees and litigation taxes shall be taxed by the judge at the adjudication of the enforcement action. It shall be a defense to any action taken for the enforcement of such order that the order is not valid as provided in subsection (b) or (d). No person shall present a foreign order of protection to a clerk which the person knows to no longer be in effect. A foreign order of protection shall continue in effect for the period of time specified in the order, and, if no time limitation is so specified, then the order shall continue in effect for a period of one (1) year from the date on which it is first presented to a Tennessee court pursuant to subsection (c); provided, that a continuation of any such order may be granted by the court subject to the requirements set forth in § 36-3-605.

(d) A protection order entered against both the petitioner and respondent shall not be enforceable against the petitioner in a foreign jurisdiction unless:

(1) The respondent filed a cross- or counter-petition, or a complaint or other written pleading was filed seeking such a protection order; and

(2) The issuing court made specific findings of domestic or family violence against the petitioner.

(e) The clerk shall be under no obligation to make a determination as to the validity of such orders or documentation but shall forward a copy of the foreign protection order and any supporting documentation filed with the order to the local police or sheriff's office which shall enter foreign orders of protection in the Tennessee criminal information system as provided for in § 36-3-609.

(f) The state of Tennessee orders of protection file (the Tennessee criminal information system) shall be available at all times to inform courts, dispatchers and law enforcement officers of any protection order issued within this state or filed as a foreign order for purpose of enforcement in this state.

(g) Upon request the clerk shall provide a copy of the order to the person offering the same showing proof of receipt by the clerk's office.

(h) Filing and entry of the foreign order in the Tennessee criminal information system shall not be prerequisites for enforcement of the foreign protection order.

(i) Regardless of whether a foreign order of protection has been filed in this state pursuant to this section, a law enforcement officer may rely upon a copy of any such protection order which has been provided to the officer by any source and may also rely upon the statement of any person protected by a foreign order that the order remains in effect. A law enforcement officer acting in good faith shall be immune from civil and criminal liability in any action in connection with a court's finding that the foreign order was for any reason not enforceable.

[Acts 1997, ch. 250, § 1.]

36-3-623. Confidentiality of records of centers.

The records of domestic violence shelters and rape crisis centers may be treated as confidential by the records custodian of such shelters or centers unless:

(1) The individual to whom the records pertain authorizes their release; or

(2) A court approves a subpoena for the records, subject to such restrictions as the court may impose, including in camera review.

[Acts 1999, ch. 344, § 5.]

36-3-624. Death review teams established – Protocol – Composition of teams – Disclosure of communications – Authority to subpoena.

(a) A county may establish an interagency domestic abuse death review team to assist local agencies in identifying and reviewing domestic abuse deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic abuse cases.

(b) For purposes of this section, "domestic abuse" has the meaning set forth in § 36-3-601.

(c) A county may develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic abuse victims in the identification of domestic abuse, in the determination of whether domestic abuse contributed to death or whether domestic abuse had occurred prior to death but was not the actual cause of death, and in the proper written reporting procedures for domestic abuse, including the designation of the cause and mode of death.

(d) County domestic abuse death review teams may be comprised of, but not limited to, the following:

(1) Experts in the field of forensic pathology;

(2) Medical personnel with expertise in domestic violence abuse;

(3) Coroners and medical examiners;

(4) Criminologists;

(5) District attorneys general and city attorneys;

(6) Domestic abuse shelter staff;

(7) Legal aid attorneys who represent victims of abuse;

(8) A representative of the local bar association;

(9) Law enforcement personnel;

(10) Representatives of local agencies that are involved with domestic abuse reporting;

(11) County health department staff who deal with domestic abuse victims' health issues;

(12) Representatives of local child abuse agencies; and

(13) Local professional associations of persons described in paragraphs (1) to (10), inclusive.

(e) An oral or written communication or a document shared within or produced by a domestic abuse death review team related to a domestic abuse death is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic abuse death review team is confidential and not subject to disclosure or discoverable by a third party. Notwithstanding the foregoing, recommendations of a domestic abuse death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of a domestic abuse death review team.

(f) To complete a review of a domestic abuse death, whether confirmed or suspected, each domestic abuse death team shall have access to, and subpoena power to obtain, all records of any nature maintained by any public or private entity that may pertain to a death being investigated by the team including, but not limited to, police investigations and reports, medical examiner investigative data and reports and social service agency records, as well as medical records maintained by a private health care provider or a health care agency. Any entity or individual providing such information to the local team shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed for such action.

(g) To complete a review of a domestic abuse death, whether confirmed or suspected, each domestic abuse death review team shall have access to and subpoena power to obtain all records of any nature maintained by any public or private entity which pertain to a death being investigated by the team. Such records include, but are not limited to, police investigations and reports, medical examiner investigative data and reports, and social service agency reports, as well as medical records maintained by a private health care provider or health care agency. Any entity or individual providing such information to the local team shall not be held liable for providing the information.

[Acts 2000, ch. 788, § 1.]

37-1-602. Definitions – Harm to child's health or welfare.

(a) For purposes of this part and § 8-7-109, § 37-1-152, § 37-1-403, § 37-1-405, § 37-1-406, § 37-1-408, § 37-1-413 and § 49-7-117, unless the context otherwise requires:

(1) "Child care agency" is as defined in § 71-3-501 and § 37-5-501;

(2) "Child protection team" means the investigation team created by § 37-1-607;

(3) (A) "Child sexual abuse" means the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under thirteen (13) years of age that prior to November 1, 1989, constituted the criminal offense of:

(i) Aggravated rape under § 39-2-603 [repealed];

(ii) Aggravated sexual battery under § 39-2-606 [repealed];

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

(iv) Begetting child on wife's sister under § 39-4-307 [repealed];

(v) Crimes against nature under § 39-2-612 [repealed];

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

(vii) Promotion of performance including sexual conduct by minor under § 39-6-1138 [repealed].

(viii) Rape under § 39-2-604 [repealed];

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

(x) Use of minor for obscene purposes under § 39-6-1137 [repealed]; or

(B) "Child sexual abuse" also means the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under thirteen (13) years of age that on or after November 1, 1989, constituted the criminal offense of:

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

(ii) Aggravated sexual battery under § 39-13-504;

(iii) Aggravated sexual exploitation of a minor under § 39-17-1004; or

(iv) Criminal attempt as provided in § 39-12-101 for any of the offenses listed above;

(v) Especially aggravated sexual exploitation of a minor under § 39-17-1005.

(vi) Incest under § 39-15-302;

(vii) Rape under § 39-13-503;

(viii) Sexual battery under § 39-13-505;

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

(C) "Child sexual abuse" also means one (1) or more of the following acts:

(i) Any penetration, however slight, of the vagina or anal opening of one (1) person by the penis of another person, whether or not there is the emission of semen;

(ii) Any contact between the genitals or anal opening of one (1) person and the mouth or tongue of another person;

(iii) Any intrusion by one (1) person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it shall not include acts intended for a valid medical purpose;

(iv) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it shall not include:

(a) Acts which may reasonably be construed to be normal caretaker responsibilities, interactions with, or affection for a child; or

(b) Acts intended for a valid medical purpose;

(v) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose;

(vi) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

(a) Solicit for or engage in prostitution; or

(b) Engage in an act prohibited by § 39-17-1003;

(D) For the purposes of the reporting, investigation, and treatment provisions of § 37-1-603 - § 37-1-615 "child sexual abuse" also means the commission of any act specified in subdivisions (a)(2)(A)-(C) against a child thirteen (13) years of age through seventeen (17) years of age if such act is committed against the child by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child;

(4) "Department" means the department of children's services;

(5) "Guardian ad litem" means a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court;

(6) "Institutional child sexual abuse" means situations of known or suspected child sexual abuse in which the person allegedly perpetrating the child sexual abuse is an employee of a public or private child care agency, public or private school, or any other person responsible for the child's care;

(7) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture; and

(8) "Other person responsible for a child's care or welfare" includes, but is not limited to, the child's legal guardian, legal custodian, or foster parent; an employee of a public or private child care agency, public or private school; or any other person legally responsible for the child's welfare in a residential setting.

(b) Harm to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

(1) Commits, or allows to be committed, child sexual abuse as defined in subdivisions (a)(2)(A)-(C); or

(2) Exploits a child under eighteen (18) years of age, or allows such child to be exploited, as provided in § 39-17-1003 - § 39-17-1005.

[Acts 1985, ch. 478, § 3; 1988, ch. 953, § 12; 1996, ch. 1079, § 73; 2000, ch. 981, § 51, § 55.]

37-1-603. Comprehensive state plan.

(a) The department shall develop a state plan which encompasses and complies with the scope of all provisions of this part for the detection, intervention, prevention and treatment of child sexual abuse. The department of education and the state board of education shall participate and fully cooperate in the development of the state plan. Furthermore, appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan. Appropriate groups and organizations shall include, but not be limited to, community mental health centers; the juvenile courts; the school boards of the local school districts; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multi-disciplinary child protection teams; child care centers; and law enforcement agencies. The state plan to be provided to the general assembly, the appropriate committees and the governor shall include, as a minimum, the information required of the various groups in subsection (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

(1) The department of children's services shall establish a task force composed of representatives from the department of mental health and developmental disabilities, the commission on children and youth created by § 37-3-102, a child abuse agency as defined in § 37-5-501, the interdepartmental coordination council appointed pursuant to § 37-3-108 [repealed], a treatment resource as defined in § 33-1-101, the child abuse review teams created by § 37-1-407, and a local child service agency. Representatives of the departments of children's services, education, health, the Tennessee bureau of investigation, district attorneys general conference, Tennessee council of juvenile and family court judges, and local law enforcement agencies shall serve as ex officio members of the task force. The task force shall be responsible for:

(A) Developing a plan of action for better coordination and integration of the goals, activities, and funding of the department pertaining to the detection, intervention, prevention, and treatment of child sexual abuse in order to maximize staff and resources, including the effective utilization of licensure personnel in determining whether children are properly cared for and protected by the child care agencies licensed by the department of children's services or human services. The department shall develop ways not only to inform and instruct all personnel in the child care agencies in the detection, intervention, prevention and treatment of child sexual abuse, but shall develop ways for licensure personnel at least annually to require that all such agencies present a prevention program to the children enrolled in and cared for by the agency. Licensing staff shall provide training to such agencies if needed to assist them in presenting such a program and shall review and approve the materials to be presented. The department shall formulate an effective and efficient method for updating files of victims of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(B) Preparing the state plan for submission to the members of the general assembly and the governor. Such preparation shall include the cooperative plans as provided in this section and the plan of action for coordination and integration of departmental activities into one (1) comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change; and

(C) Working with the specified agency in fulfilling the requirements of subdivisions (b)(2), (3), (4), (5) and (6);

(2) The department of education and the state board of education and the department of children's services shall work together in developing ways to inform and instruct appropriate school personnel and children in all school districts in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(3) The departments of education and children's services, and the state board of education, shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multi-disciplinary approach on the detection, intervention, prevention and treatment of child sexual abuse. The curriculum materials shall be geared toward a sequential program of instruction at progressional levels for kindergarten (K) through grade six (6). Strategies for utilizing the curriculum shall be included in the comprehensive plan;

(4) The Jerry F. Agee Tennessee Law Enforcement Academy, the Tennessee peace officer standards and training commission, and the department of children's services shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse:

(A) Guidelines shall be prepared establishing a standard procedure which may be followed by police agencies in the investigation of cases involving sexual abuse of children, including police response to, and treatment of, victims of such crimes;

(B) The course of training leading to the basic certificate issued by the Tennessee peace officer standards and training commission shall include adequate instruction in the procedures described in subdivision (b)(4)(A) and shall be included as a part of the in-service training requirement to be eligible for the salary supplement authorized in § 38-8-111;

(C) A course of study pursuant to such procedures for the training of specialists in the investigation of child sexual abuse cases shall be implemented by the Jerry F. Agee Tennessee Law Enforcement Training Academy. Officers assigned as investigation specialists for these crimes shall successfully complete their training;

(D) The peace officers standards and training commission may authorize the certification of officers under this section if the officers have received training meeting the criteria established in subdivision (b)(4)(A) from any other approved training course at sites other than the Jerry F. Agee Tennessee Law Enforcement Training Academy; and

(E) It is the intent of the general assembly to encourage the establishment of child sex crime investigation units in sheriffs' departments and police agencies throughout the state, which units shall include investigating crimes involving sexual abuse of children.

The plan for accomplishing this end shall be included in the comprehensive state plan;

(5) The department of children's services shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect, intervene in, prevent and treat child sexual abuse, and in the proper action that should be taken in a suspected case of

child sexual abuse. Such plan shall include a method for publicizing and notifying the general public of the resources and agencies available to provide help and services for victimized children and their families. The plan for accomplishing this end shall be included in the comprehensive state plan; and

(6) The department of children's services and the judicial council shall work together in developing a mechanism to inform and instruct judges with juvenile, divorce and criminal jurisdiction in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a known or suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan.

(c) (1) All budget requests submitted by the department of children's services, the department of education, or any other agency to the general assembly for funding of efforts for the detection, intervention, prevention, and treatment of child sexual abuse shall be based on the state comprehensive plan developed pursuant to this section.

(2) The department of children's services shall readdress the plan one (1) year following its initial presentation and at least biennially thereafter, and shall make necessary revisions. No later than January 31, 1987, and no later than January 31 of every uneven year thereafter, such revisions shall be submitted to the government operations committees of both houses of the general assembly and to the governor.

[Acts 1985, ch. 478, § 4; 1987, ch. 145, § 27; 1988, ch. 953, § 13; 1989, ch. 278, § 36; 1996, ch. 1079, § 73; 2000, ch. 947, § 6; 2000, ch. 981, § 51, § 56.]

37-1-613. Immunity from civil or criminal liability.

Any person making a report of child sexual abuse shall be afforded the same immunity and shall have the same remedies as provided by § 37-1-410 for other persons reporting harm to a child. Any other person, official or institution participating in good faith in any act authorized or required by this part shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

[Acts 1985, ch. 478, § 14.]

37-1-614. Evidentiary privileges inapplicable in child sexual abuse cases.

The privileged quality of communication between husband and wife and between any professional person and the professional person's patient or client, and any other privileged communication except that between attorney and client, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected child sexual abuse and shall not constitute grounds for failure to report as required by this part, failure to cooperate with the department in its activities pursuant to this part, or failure to give evidence in any judicial proceeding relating to child sexual abuse.

[Acts 1985, ch. 478, § 15.]

39-13-101. Assault.

(a) A person commits assault who:

(1) Intentionally, knowingly or recklessly causes bodily injury to another;

(2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or

(3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

(b) (1) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(8), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200). Such additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the same to the general fund. All such fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to §67-4-411.

[Acts 1989, ch. 591, § 1; 1990, ch. 1030, § 11; 2002, ch. 649, § 1.]

39-13-102. Aggravated assault.

(a) A person commits aggravated assault who:

(1) Intentionally or knowingly commits an assault as defined in § 39-13-101 and:

(A) Causes serious bodily injury to another; or

(B) Uses or displays a deadly weapon; or

(2) Recklessly commits an assault as defined in § 39-13-101(a)(1), and:

(A) Causes serious bodily injury to another; or

(B) Uses or displays a deadly weapon.

(b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect such child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in § 39-15-402.

(c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against such individual or individuals.

(d) (1) Aggravated assault under subdivision (a)(1) or subsection (b) or (c) is a Class C felony. Aggravated assault under subdivision (a)(2) is a Class D felony. The court shall consider as an enhancement factor at the time of sentencing that the victim of the aggravated assault was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, or a state registered security officer/guard performing an official duty or an employee of the department of correction or the department of children's services; provided, that such officer or employee was performing an official duty. The court shall consider as an enhancement factor at the time of sentencing that the victim of the aggravated assault was an emergency medical or rescue worker, emergency medical technician, or paramedic, whether compensated or acting as a volunteer; provided that such technician or worker was performing an official duty.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(8), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200). Such additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who

shall credit the same to the general fund. All such fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to § 67-4-411.

[Acts 1989, ch. 591, § 1; 1990, ch. 980, § 2; 1990, ch. 1030, §§ 12, 13; 1993, ch. 306, § 1; 1995, ch. 452, § 1; 1996, ch. 830, § 1; 1996, ch. 1009, § 19; 1998, ch. 1049, § 9; 2002, ch. 649, § 2.]

39-13-103. Reckless endangerment.

(a) A person commits an offense who recklessly engages in conduct which places or may place another person in imminent danger of death or serious bodily injury.

(b) Reckless endangerment is a Class A misdemeanor; however, reckless endangerment committed with a deadly weapon is a Class E felony.

[Acts 1989, ch. 591, § 1.]

39-13-104. Effective consent.

When conduct is charged to constitute an offense under this part because it causes or threatens bodily injury, effective consent to such conduct or to the infliction of such injury is a defense if:

(1) The bodily injury consented to or threatened by the conduct consented to is not serious bodily injury; or

(2) The conduct and the harm are reasonably foreseeable hazards:

(A) Of joint participation in a lawful athletic contest or competitive sport; or

(B) For any concerted activity of a kind not forbidden by law.

[Acts 1992, ch. 673, § 1.]

39-13-105. Other offenses – Physical injury to victim.

In addition to the enumerated offenses, crimes against the person shall be any violent offense which results or could have resulted in physical injury to the victim, including, but not limited to, rape, sexual battery and kidnapping.

[Acts 1993, ch. 524, § 3.]

39-13-110. Female genital mutilation.

(a) Except as otherwise permitted in subsection (b), whoever knowingly circumcises excises or infibulates in whole or in part, the labia majora, labia minora or clitoris of another commits a Class D felony. Consent to the procedure by a minor on whom it is performed or by the minor's parent is not a defense to a violation of this section.

(b) A surgical procedure is not a violation of subsection (a) if the procedure is:

(1) Necessary to the health of the person on whom it is performed and is performed by a licensed physician or physician-in-training under supervision of a licensed physician; or

(2) Performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a licensed physician or a physician-in-training under the supervision of a licensed physician.

[Acts 1996, ch. 857, § 2.]

39-13-111. Domestic assault.

(a) As used in this section, "family or household member" means spouse, former spouse, person related by blood or marriage, or person who currently resides or in the past has resided with that person as if a family, or a person who has a child or children in common with that person regardless of whether they have been married or resided together at any time.

(b) A person commits domestic assault who commits an assault as defined in § 39-13-101 against a person who is that person's family or household member.

(c) (1) Domestic assault is punishable the same as assault in § 39-13-101.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(8), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200). Such additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the same to the general fund. All such fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to §67-4-411.

[Acts 2000, ch. 824, § 1; 2002, ch. 649, § 3.]

39-13-501. Definitions.

As used in § 39-13-501 - § 39-13-511, except as specifically provided in § 39-13-505, unless the context otherwise requires:

(1) "Coercion" means threat of kidnapping, extortion, force or violence to be performed immediately or in the future or the use of parental, custodial, or official authority over a child less than fifteen (15) years of age;

(2) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock or breast of a human being;

(3) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of such person's conduct;

(4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent;

(5) "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act;

(6) "Sexual contact" includes the intentional touching of the victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification;

(7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required; and

(8) "Victim" means the person alleged to have been subjected to criminal sexual conduct.

[Acts 1989, ch. 591, § 1; 1997, ch. 256, § 2.]

39-13-502. Aggravated rape.

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Aggravated rape is a Class A felony.

[Acts 1989, ch. 591, § 1; 1990, ch. 980, § 3; 1992, ch. 878, § 3.]

39-13-503. Rape.

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual penetration is accomplished by fraud.

(b) Rape is a Class B felony.

(c) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

[Acts 1989, ch. 591, § 1; 1995, ch. 484, § 1; 1997, ch. 406, § 1.]

39-13-504. Aggravated sexual battery.

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The victim is less than thirteen (13) years of age.

(b) Aggravated sexual battery is a Class B felony.

[Acts 1989, ch. 591, § 1; 1993, ch. 289, § 1.]

39-13-505. Sexual battery.

(a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual contact is accomplished by fraud.

(b) As used in this section, "coercion" means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.

(c) Sexual battery is a Class E felony.

(d) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

[Acts 1989, ch. 591, § 1; 1995, ch. 484, § 2; 1996, ch. 675, § 74; 1997, ch. 256, § 3; 1997, ch. 406, § 3.]

39-13-506. Statutory rape.

(a) Statutory rape is sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least four (4) years older than the victim.

(b) If the person accused of statutory rape is under eighteen (18) years of age, such a defendant shall be tried as a juvenile and shall not be transferred for trial as an adult.

(c) Statutory rape is a Class E felony.

[Acts 1989, ch. 591, § 1; 1990, ch. 980, § 4; 1994, ch. 719, § 1.]

39-13-507. Limited spousal exclusion.

(a) A person does not commit an offense under this part if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c).

(b) (1) "Spousal rape" means the unlawful sexual penetration of one spouse by the other where:

(A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(B) The defendant causes serious bodily injury to the victim; or

(C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.

(2) (A) "Spousal rape," as defined in subdivision (b)(1)(A) or (B), is a Class C felony.

(B) "Spousal rape," as defined in subdivision (b)(1)(C) shall be punished pursuant to § 39-13-502 or § 39-13-503.

(c) (1) "Aggravated spousal rape" is the unlawful sexual penetration of one spouse by the other where the defendant:

(A) Knowingly engaged in conduct that was especially cruel, vile and inhumane to the victim during commission of the offense; and either;

(B) Causes serious bodily injury to the victim; or

(C) Is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(2) Aggravated spousal rape is a Class B felony.

(d) (1) "Spousal sexual battery" means the unlawful sexual contact by one (1) spouse of another where:

(A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(B) The defendant causes serious bodily injury to the victim; or

(C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.

(2) (A) "Spousal sexual battery," as defined in subdivision (c)(1)(A) or (B), is a Class D felony.

(B) "Spousal sexual battery," as defined in subdivision (c)(1)(C) shall be punished pursuant to § 39-13-504 or § 39-13-505.

[Acts 1989, ch. 591, § 1; 1990, ch. 980, § 5; 1997, ch. 480, § 1; 1998, ch. 1068, § 1.]

39-13-511. Public indecency – Indecent exposure.

(a) (1) (A) A person commits the offense of public indecency who, in a public place, as defined in subdivision (a)(2)(B), knowingly or intentionally:

(i) Engages in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions or other ultimate sex acts;

(ii) Appears in a state of nudity; or

(iii) Fondles the genitals of such person, or another person.

(B) A person does not violate this subdivision (a)(1) if such person makes intentional and reasonable attempts to conceal such person from public view while performing an excretory function, and such person performs such function in an unincorporated area of the state.

(2) As used in subdivision (a)(1):

(A) "Nudity" or "state of nudity" means the showing of the bare human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of the areola, or the showing of the covered male genitals in a discernibly turgid state. "Nudity" or "state of nudity" does not include a mother in the act of nursing the mother's baby; and

(B) "Public place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public places" includes, but is not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where

entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place. "Public places" does not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor does it include a person appearing in a state of nudity in a modeling class operated by a proprietary school, licensed by the state of Tennessee, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where such private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college. "Public place" does not include a private facility which has been formed as a family-oriented clothing optional facility, properly licensed by the state.

(3) Public indecency is punishable as follows:

(A) A first or second offense is a Class B misdemeanor punishable only by a fine of five hundred dollars ($500); and

(B) A third or subsequent offense is a Class A misdemeanor punishable by a fine of one thousand five hundred dollars ($1,500) or confinement for not more than eleven (11) months and twenty-nine (29) days, or both.

(4) (A) If a person is arrested for public indecency while working as an employee or a contractor, the employer or principal may be held liable for a fine imposed by this subsection (a).

(B) The employer may not be held liable under this section unless it is shown the employer knew or should have known the acts of the employee or contractor were in violation of this statute.

(5) The provisions of this subsection (a) do not apply to any theatrical production which contains nudity as defined by this section performed in a theater by a professional or amateur theatrical or musical company which has serious artistic merit; provided, that such production is not in violation of chapter 17, part 9 of this title.

(6) This subsection (a) shall not affect in any fashion the ability of local jurisdictions or the state of Tennessee to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption.

(b) (1) A person commits the offense of indecent exposure who:

(A) In a public place, as defined in § 39-11-106, or on the private premises of another, or so near thereto as to be seen from such private premises:

(i) Intentionally:

(a) Exposes such person's genitals or buttocks to another; or

(b) Engages in sexual contact or sexual penetration as defined in § 39-13-501; and

(ii) Reasonably expects that the acts will be viewed by another and such acts:

(a) Will offend an ordinary viewer; or

(b) Are for the purpose of sexual arousal and gratification of the defendant; or

(B) Knowingly invites, entices or fraudulently induces the child of another into such person's residence for the purpose of attaining sexual arousal or gratification by intentionally engaging in the following conduct in the presence of such child:

(i) Exposure of such person's genitals, buttocks or female breasts; or

(ii) Masturbation.

For the provisions of this subdivision (b)(1)(B) to apply, the defendant must be eighteen (18) years of age or older and the child victim must be less than thirteen (13) years of age.

(2) "Indecent exposure," as defined in subdivision (b)(1), is a Class B misdemeanor, unless the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, in which event indecent exposure is a Class A misdemeanor. Additionally, "indecent exposure," as defined in subdivision (b)(1), is a Class E felony when the defendant is eighteen (18) years of age or older, the victim is under thirteen (13) years of age, and the defendant has any combination of two (2) or more prior convictions under this section.

[Acts 1989, ch. 591, § 1; 1990, ch. 980, § 33; 1994, ch. 542, §§ 1-3; 1998, ch. 755, § 1; 1999, ch. 189, § 1.]

39-13-522. Rape of a child.

(a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if such victim is less than thirteen (13) years of age.

(b) Rape of a child is a Class A felony.

(c) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

[Acts 1992, ch. 878, § 1; 1997, ch. 406, § 2.]

39-13-523. Multiple rapists – Child rapists – Definitions – Sentencing – Release and parole.

(a) As used in this section, unless the context otherwise requires:

(1) "Child rapist" means a person convicted one (1) or more times of rape of a child as defined by § 39-13-522;

(2) "Multiple rapist" means a person convicted two (2) or more times of violating the provisions of § 39-13-502 or § 39-13-503, or a person convicted at least one (1) time of violating § 39-13-502, and at least one (1) time of § 39-13-503

(b) Notwithstanding any other provision of law to the contrary, a multiple rapist or a child rapist, as defined in subsection (a), shall be required to serve the entire sentence imposed by the court undiminished by any sentence reduction credits such person may be eligible for or earn. A multiple rapist or a child rapist shall be permitted to earn any credits for which such person is eligible and such credits may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court

(c) The provisions of title 40, chapter 35, part 5, relative to release eligibility status and parole shall not apply to or authorize the release of a multiple rapist or child rapist, as defined in subsection (a), prior to service of the entire sentence imposed by the court.

(d) Nothing in the provisions of title 41, chapter 1, part 5, shall give either the governor or the board of probation and parole the authority to release or cause the release of a multiple rapist or child rapist, as defined in subsection (a), prior to service of the entire sentence imposed by the court.

(e) The provisions of this section requiring multiple rapists to serve the entire sentence imposed by the court shall only apply if at least one (1) of the required offenses occurs on or after July 1, 1992.

[Acts 1992, ch. 878, § 1; 1998, ch. 1049, § 10.]

39-13-527. Sexual battery by an authority figure.

(a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances:

(1) The victim was, at the time of the offense, thirteen (13) years of age or older but less than eighteen (18) years of age; and either

(A) The defendant had, at the time of the offense, supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional or occupational status and used such power to accomplish the sexual contact; or

(B) The defendant had, at the time of the offense, parental or custodial authority over the victim and used such authority to accomplish the sexual contact.

(b) Sexual battery by an authority figure is a Class C felony.

[Acts 1997, ch. 256, § 1; 1998, ch. 1034, § 1.]

39-13-528. Solicitation of a minor.

(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or Internet services, directly or through another, to intentionally command, request or hire a person who the person making the solicitation knows or should know is less than eighteen (18) years of age to engage in conduct that if completed would constitute a violation by the soliciting adult of one (1) or more of the following offenses:

(1) Rape of a child pursuant to § 39-13-522;

(2) Aggravated rape pursuant to § 39-13-502;

(3) Rape pursuant to § 39-13-503;

(4) Aggravated sexual battery pursuant to § 39-13-504;

(5) Sexual battery pursuant to § 39-13-505;

(6) Statutory rape pursuant to § 39-13-506; and

(7) Especially aggravated sexual exploitation of a minor pursuant to § 39-17-1005.

(b) It is no defense that the solicitation was unsuccessful and the conduct solicited was not engaged in. It is no defense that if the solicited conduct were engaged in the minor would not commit any of the listed offenses. It is no defense that the minor solicited was unaware of the criminal nature of the conduct solicited.

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

[Acts 1998, ch. 1007, § 1; 2000, ch. 944, § 1.]

39-17-308. Harassment.

(a) A person commits an offense who intentionally:

(1) Threatens, by telephone, in writing, or by electronic communication, including electronic mail or internet services, to take action known to be unlawful against any person, and by this action knowingly annoys or alarms the recipient;

(2) Places one (1) or more telephone calls anonymously, or at an hour or hours known to be inconvenient to the victim, or in an offensively repetitious manner, or without a legitimate purpose of communication, and by this action knowingly annoys or alarms the recipient; or

(3) Communicates by telephone to another that a relative or other person has been injured, killed or is ill when such communication is known to be false.

(b) (1) A person convicted of a criminal offense commits an offense if, while incarcerated, on pre-trial diversion, probation, community correction or parole, such person intentionally communicates in person with the victim of such person's crime if the communication is:

(A) Anonymous or threatening or made in an offensively repetitious manner or at hours known to be inconvenient to the victim;

(B) Made for no legitimate purpose; and

(C) Made knowing that it will alarm or annoy the victim.

(2) If the victim of such person's offense died as the result of the offense, the provisions of this subsection (b) shall apply to the deceased victim's next-of-kin.

(c) A violation of subsection (a) is a Class A misdemeanor. A violation of subsection (b) is a Class E felony.

[Acts 1989, ch. 591, § 1; 1998, ch. 1035, § 1, § 2; 2001, ch. 26, § 1.]

39-17-315. Stalking.

(a) (1) A person commits the offense of stalking who intentionally and repeatedly follows or harasses another person in such a manner as would cause that person to be in reasonable fear of being assaulted, suffering bodily injury or death.

(2) As used in this section:

(A) "Follows" means maintaining a visual or physical proximity over a period of time to a specific person in such a manner as would cause a reasonable person to have a fear of an assault, bodily injury or death;

(B) "Harasses" means a course of conduct directed at a specific person which would cause a reasonable person to fear an assault, bodily injury, or death, including, but not limited to, verbal threats, written threats, vandalism, or unconsented-to physical contact; and

(C) "Repeatedly" means on two (2) or more separate occasions.

(b) (1) Stalking is a Class A misdemeanor.

(2) A second or subsequent violation of subsection (a) occurring within seven (7) years of the prior conviction is a Class E felony. A second or subsequent violation of subsection (a) involving the same victim and occurring within seven (7) years of the prior conviction is a Class C felony.

(c) The provisions of this section shall not be construed to prohibit following another person during the course of a lawful business activity.

[Acts 1992, ch. 795, § 1; 1993, ch. 435, § 1; 1995, ch. 378, § 1.]

39-17-1001. Short title.

This part shall be known and may be cited as the "Tennessee Protection of Children Against Sexual Exploitation Act of 1990."

[Acts 1990, ch. 1092, § 7.]

39-17-1002. Definitions.

The following definitions apply in §§ 39-17-1002 - 39-17-1007 unless the context requires otherwise:

(1) "Community" means the judicial district, as defined by § 16-2-506, in which a violation is alleged to have occurred;

(2) "Material" means:

(A) Any picture, drawing, photograph, motion picture film, videocassette tape or other pictorial representation;

(B) Any statue, figure, theatrical production or electrical reproduction; or

(C) Any text or image stored on a computer hard drive, a computer disk of any type, or any other medium designed to store information for later retrieval;

(3) "Minor" means any person who has not reached eighteen (18) years of age;

(4) "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters;

(5) "Promote" means to finance, produce, direct, manufacture, issue, publish, exhibit or advertise;

(6) "Prurient interest" means a shameful or morbid interest in sex;

(7) "Sexual activity" means any of the following acts:

(A) Vaginal, anal or oral intercourse, whether done with another person or an animal;

(B) Masturbation, whether done alone or with another human or an animal;

(C) Patently offensive, as determined by contemporary community standards, physical contact with or touching of a person's clothed or unclothed genitals, pubic area, buttocks or breasts in an act of apparent sexual stimulation or sexual abuse;

(D) Sado-masochistic abuse including flagellation, torture, physical restraint, domination or subordination by or upon a person for the purpose of sexual gratification of any person;

(E) The insertion of any part of a person's body or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure by a licensed professional;

(F) Patently offensive, as determined by contemporary community standards, conduct, representations, depictions or descriptions of excretory functions; or

(G) Lascivious exhibition of the female breast or the genitals or pubic area of any person.

[Acts 1990, ch. 1092, § 7; 1995, ch. 216, § 1; 1999, ch. 343, §§ 1-4; 2001, ch. 147, § 1.]

39-17-1003. Sexual exploitation of a minor.

(a) It is unlawful for any person to knowingly possess material that includes a minor engaged in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) In a prosecution under this section, the trier of fact may infer that a participant is a minor if the material through its title, text, visual representation or otherwise represents or depicts the participant as a minor.

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

[Acts 1990, ch. 1092, § 7.]

39-17-1004. Aggravated sexual exploitation of a minor.

(a) (1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, which includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) In a prosecution under this subsection (a), the trier of fact may infer that a participant is a minor if the material through its title, text, visual representation or otherwise represents or depicts the participant as a minor.

(3) A violation of this subsection (a) is a Class C felony.

(b) (1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material which is obscene, as defined in § 39-17-901(10), or possess with the intent to promote, sell, distribute, transport, purchase or exchange such material, which includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) In a prosecution under this subsection (b), the trier of fact may infer that a participant is a minor if the material through its title, text, visual representation or otherwise represents or depicts the participant as a minor.

(3) A violation of this subsection (b) is a Class B felony.

[Acts 1990, ch. 1092, § 7.]

39-17-1005. Especially aggravated sexual exploitation of a minor.

(a) It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance or in the production of material which includes the minor engaging in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) In a prosecution under this section, the trier of fact may infer that a participant is a minor if the material through its title, text, visual representation or otherwise represents or depicts the participant as a minor.

(c) A violation of this section is a Class B felony. Nothing in this section shall be construed as limiting prosecution under § 39-13-502, for aggravated rape or § 39-13-504, for aggravated sexual battery.

[Acts 1990, ch. 1092, § 7.]

40-35-111. Authorized terms of imprisonment and fines for felonies and misdemeanors.

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars ($50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars ($25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars ($10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars ($5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars ($3,000), unless otherwise provided by statute.

(c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(1) Three hundred fifty thousand dollars ($350,000) for a Class A felony;

(2) Three hundred thousand dollars ($300,000) for a Class B felony;

(3) Two hundred fifty thousand dollars ($250,000) for a Class C felony;

(4) One hundred twenty-five thousand dollars ($125,000) for a Class D felony; and

(5) Fifty thousand dollars ($50,000) for a Class E felony.

If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars ($2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars ($500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars ($50.00), or both, unless otherwise provided by statute.

[Acts 1989, ch. 591, § 6.]

40-35-112. Sentence ranges.

(a) A "Range I" sentence is as follows:

(1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;

(2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;

(3) For a Class C felony, not less than three (3) nor more than six (6) years;

(4) For a Class D felony, not less than two (2) nor more than four (4) years; and

(5) For a Class E felony, not less than one (1) nor more than two (2) years.

(b) A "Range II" sentence is as follows:

(1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;

(2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;

(3) For a Class C felony, not less than six (6) nor more than ten (10) years;

(4) For a Class D felony, not less than four (4) nor more than eight (8) years; and

(5) For a Class E felony, not less than two (2) nor more than four (4) years.

(c) A "Range III" sentence is as follows:

(1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;

(2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;

(3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;

(4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and

(5) For a Class E felony, not less than four (4) nor more than six (6) years.

[Acts 1989, ch. 591, § 6.]

Tennessee Truth-in-Sentencing (http://www.attorneygeneral.org/truth.html)

The Tennessee Truth-in-Sentencing law prescribes specific sentences for specific classes of crimes. Felonies are broken down into five classes, A-E. Within each class there are 5-6 offender levels. If someone is convicted of a Class A felony, the most serious felony crime, he or she could be sentenced to from 13.5 years to Life without parole depending on their offender class. The following examples illustrate how sentences are actually determined.

Class A Felon, Mitigated Offender – If the felon had no prior felony convictions and the court finds mitigating factors and no enhancing factor, then the felon would be sentenced to 13.5 years. This first time offender would have to serve at least 20% of their sentence, 2.7 years, before the felon could be considered for early release.

Class A Felon, Career Offender – If the felon had committed either 3 prior Class A felonies, or 4 prior Class B felonies or 6 prior Class C felonies, then the felon would be treated as a Career Offender and would be sentenced to 60 years imprisonment. This Career Offender would have to serve at least 60% of his or her sentence, 36 years, before having a Release Eligibility Date (RED).

First degree murder and misdemeanor are on a separate schedule, while multiple or child rapists have no Release Eligibility Date and must serve 100% of their sentence.

Tennessee Truth-in-Sentencing Matrix Imprisonment By Class Release Eligibility Dates (RED)					
Felony Class	**Mitigated Offender**	**Standard Offender**	**Multiple Offender**	**Persistent Offender**	**Career Offender**
A 15-60yrs. RED% RED yrs	13.5 years 20% {2.7 yrs.}	15-25 years 30% {4.5-7.5 yrs}	25-40 years 35% {8.8-14 yrs}	40-60 years 45% {18-27 yrs}	60 yrs. 60% {36 yrs}
B 8-30yrs. RED% RED yrs	7.2 years 20% {1.4 yrs}	8-12 years 30% {2.4-3.6 yrs}	12-20 years 35% {4.2-7 yrs}	20-30 years 45% {9-13.5 yrs}	30 yrs. 60% {18 yrs}
C 3-15yrs. RED% RED yrs	2.7 years 20% {.5 yrs}	3-6 years 30% {.9-1.8 yrs}	6-10 years 35% {2.1-3.5 yrs}	10-15 years 45% {4.5-6.8 yrs}	15 yrs. 60% {9 yrs}
D 2-12yrs. RED% RED yrs	1.8 years 20% {.4 yrs}	2-4 years 30% {.6-1.2 yrs}	4-8 years 35% {1.4-2.8 yrs}	8-12 years 45% {3.6-5.4 yrs}	12 yrs. 60% {7.2 yrs}
E 2-12yrs. RED% RED yrs	.9 years 20% {.2 yrs}	1-2 years 30% {.3-.6 yrs}	2-4 years 35% {.7-1.4 yrs}	4-6 years 45% {1.8-2.7 yrs}	6 yrs. 60% {3.6 yrs}
For Repeat Violent Offenders for Class A, B, or C Felonies, the sentence is Life Without Parole.					
In Addition to the Above Sentences, the Following Fines are Applicable: **Class A:** Up to $50,000; [Drug:$2,000 - $500,000] **Class B:** Up to $25,000; [Drug:$2,000 - $100,000] **Class C:** Up to $10,000; [Drug:$2,000 - $100,000] **Class D:** Up to $5,000; [Drug:$2,000 - $50,000] **Class E:** Up to $3,000; [Drug:$2,000 - $5,000]					
Class A Misdemeanor - up to 11 months and 29 days - $2,500 fine **Class B Misdemeanor** - 6 months - $500 fine **Class C Misdemeanor** - 30 days - $50 fine					
Note: **First Degree Murder is Excluded from classification** for sentencing purposes and sentenced solely according to First Degree Murder statute. **Multiple Rapists and Child Rapists** do not have RED date and must serve all of sentence.					

Especially Mitigated Offender: A defendant who has no prior felony convictions and for whom the court finds mitigating factors but no enhancing factors.

Standard Offender: Class A felony conviction UNLESS 1 or more prior convictions for a Class A Felony or 2 or more Class B or C felony. Class B felony conviction UNLESS 1 or more prior convictions for a Class

A felony or 2 or more Class B, C, or D felony. Class C, D, or E, felony conviction UNLESS the defendant has 2 or more prior felony convictions of any class.

Multiple Offender: Class A felony conviction with 1 prior conviction for a Class A felony or 2 to 4 prior convictions for a Class B or C felony. Class B felony conviction with 1 prior conviction for a Class A felony or 2 to 4 prior convictions for a Class B, C, or D felony. Class C, D, or E felony conviction with 2 to 4 prior felony convictions.

Persistent Offender: Class A or B felony conviction with 2 prior Class A felony convictions or 3 prior Class B felony convictions. Class A felony conviction with 5 or more prior Class C felony convictions. Class B felony conviction with 5 or more Class C or D felony convictions. Class C, D, or E felony conviction with 5 or more prior felony convictions.

Career Offender: Class A or B felony conviction with 3 prior Class A, or 4 prior Class B, or 6 prior Class C felony convictions. Class C felony conviction with 6 prior Class A, B, or C felony convictions. Class D or E felony conviction with 6 prior felony convictions.

Repeat Violent Offender: Class A or B violent felony conviction or conviction for 39-17-1004(a) with at least 2 prior periods of incarceration for a Class A violent felony.

40-35-113. Mitigating Factors.

T.C.A. § 40-35-113 lists 13 mitigating factors but does not limit mitigating factors to those listed. They are:

1. The defendant's criminal conduct neither caused not threatened serious bodily injury;
2. The defendant acted under strong provocation;
3. Substantial grounds exist tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
4. The defendant played a minor role in the commission of the offense;
5. Before detection, the defendant compensated or made a good faith attempt to compensate the victim of criminal conduct for the damage or injury the victim sustained;
6. The defendant, because of youth or old age, lacked substantial judgment in committing the offense;
7. The defendant was motivated by a desire to provide necessities for the defendant's family or the defendant;
8. The defendant was suffering from a mental or physical condition that significantly reduced culpability for the offense, however, the voluntary use of intoxicants does not fall within the purview of this factor;
9. The defendant assisted the authorities in uncovering offenses committed by other persons or in detecting or apprehending other persons who has committed the offenses;
10. The defendant assisted the authorities in locating or recovering any property or person involved in the crime;
11. The defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated the conduct;
12. The defendant acted under duress or under the domination of another person, even though the duress or the domination of another person is not sufficient to constitute a defense to the crime; or

13. Any other factor consistent with the purposes of this chapter.

40-35-114. Enhancement Factors.

The enhancement factors as listed in T.C.A. § 40-35-114 are:

1. The defendant has a previous history of criminal convictions or criminal behavior in addition to those necessary to establish the appropriate range;
2. The defendant was a leader in the commission of an offense involving two (2) or more criminal actors;
3. The offense involved more than one (1) victim;
4. A victim of the offense was particularly vulnerable because of age or physical or mental disability;
5. The defendant treated or allowed a victim to be treated with exceptional cruelty during the commission of the offense;
6. The personal injuries inflicted upon or the amount of damage to property sustained by or taken from the victim was particularly great;
7. The offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement;
8. The defendant has a previous history of unwillingness to comply with the conditions of a sentence involving release in the community;
9. The defendant possessed or employed a firearm, explosive device or other deadly weapon during the commission of the offense;
10. The defendant had no hesitation about committing a crime when the risk to human life was high
11. The felony resulted in death or bodily injury or involved the threat of death or bodily injury to another person and the defendant has previously been convicted of a felony that resulted in death or bodily injury;
12. During the commission of the felony the defendant willfully inflicted bodily injury upon another person, or the actions of the defendant resulted in the death of or serious bodily injury to a victim or a person other than the intended victim;
13. The felony was committed while on any of the following forms of release status if such release is from a prior felony conviction:
    1. Bail, if the defendant is ultimately convicted of such prior felony;
    2. Parole;
    3. Probation;
    4. Work release; or
    5. Any other type of release into the community under the direct or indirect supervision of the Department of Correction or local governmental authority
14. The felony was committed on escape status or while incarcerated for a felony conviction;
15. The defendant abused a position of public or private trust, or used a special skill in a manner that significantly facilitated the commission or the fulfillment of the offense;
16. The crime was committed under circumstances under which the potential for bodily injury to a victim was great;

17. The defendant committed the offense while on school property;
18. A victim, under § 39-15-402, suffered permanent impairment of either physical or mental functions as a result of the abuse inflicted; or
19. If the lack of immediate medical treatment would have probably resulted in the death of the victim under § 39-15-402.

Regular Probation: Regular Probation Services (investigative reports regular supervision) are available in all judicial districts serving the ninety-five (95) counties. Additionally, other services such as community service, drug and alcohol treatment, and other specialized services are available in certain counties of most judicial districts. By and large, probation services consumes most of the resources of the Division of Field Services since over 75% of the work the Division does is done by regular probation officers.

Intensive Probation: Intensive Probation is a specialized program serving certain counties in sixteen (16) of Tennessee's thirty-one judicial districts. It involves multiple weekly contacts with the probationer, drug screens, curfew, and electronic monitoring. Intensive officers have smaller caseloads (25) than regular officers and do not usually do normal court investigative reports. Probationers placed on intensive supervision normally have significantly more criminal records or specialized needs than do those placed on regular probation.

Community Corrections: Community Corrections is different specialized programs available in thirty (30) of the thirty-one (31) judicial districts in Tennessee; the 16th District (Rutherford and Cannon Counties) does not have the program. Community Corrections agencies can be operated by either governmental agencies or private, nonprofit organizations; the source of funding is through a grant by the Department of Correction. Community Corrections programs are usually intensive supervision highlighted by funding for alcohol and drug treatment; treatment by counseling or referral to agencies is a top priority. Most community corrections officers have reduced caseloads (25) and offenders sentenced to community corrections usually have a significant criminal past or some specialized need. Five (5) judicial districts (2nd-Sullivan, 6th-Knox, 20th-Davidson, 19th-Montgomery, and 30th-Shelby) have specialized programs such as residence facilities and day-reporting centers.

Selected Domestic Violence, Sexual Assault, and Stalking Laws
Legislative Update 2006

PC 627 – County Services to Victims of Crime – New Section § 40-24-109

The legislative body of any county may choose to create a program to assist crime victims, their families and survivors or to fund an existing victims' assistance program. The legislative body may also choose to provide funding for the program. If a program already exists, then additional funding may be provided. The type of programs included may be rape crisis centers, domestic violence shelters, victim of crime hotlines and information programs, individual, group and family counseling services, crisis intervention programs, individual, group and family counseling services, crisis intervention programs, support groups or any other similar program. To fund such a program, the clerks of the local courts shall collect a $45.00 "victims assistance assessment (fee)" from any person who enters a plea of guilty, is found guilty by a judge or jury, enters a no contest plea, or enters a plea to any criminal offense that is considered a crime by the state. However, for any crime in which the maximum punishment is a fine of less than $500.00 with no imprisonment, no fee shall be collected. Violations of the motor vehicle laws, except for DUI violations and reckless driving caused by use of an intoxicant, shall not be assessed a fee.

PC 638 – Prohibiting Use of Polygraph – New Section § 38-3-123

No law enforcement officer can require a victim of a sexual offense to take a polygraph test or any other instrumental or mechanical truth assessment or lie detector test as a condition of the officer proceeding with the investigation. If any officer violates this provision the officer is subject to disciplinary action.

PC 652 – Presumption of Custody Against a Parent Convicted of a Sex Crime

There is a presumption that custody shall not be awarded to a parent who has been convicted of a sex crime against a child under the age of 18. This can be overcome only by showing of clear and convincing evidence to the contrary. This applies only to people convicted on or after July 1, 2006. This does not prevent a parent from having visitation with the child as long as the visitation is supervised.

PC 676 – Extension of an Order of Protection Based on a Violation

This statute permits a petitioner to file a petition to modify an Order of Protection upon violation of the order, and the judge can extend the order for up to five years on an initial violation and up to ten years upon a second or subsequent violation.

PC 804 – Posting of DV National Hotline – New Section § 71-612(e)

All doctors' offices, health care facilities, community centers, and pharmacies must post a notice stating that any person, regardless of age, who may be a victim of domestic violence, may call the nationwide domestic violence hotline. The number of the domestic violence hotline must be printed in boldface type. The notice must be near the main entrance and be on a sign 8.5 X 11 inches or larger.

PC 824 – Sexual Violence Awareness and Prevention Curriculum

The Department of Education is urged to develop a sexual violence awareness curriculum. The curriculum should be presented at least once to grades seven through eighth and preferably twice to grades nine through twelfth. The curriculum should include information on teen dating violence (date rape, statutory rape, and stranger rape), the use of alcohol and drugs in sex crimes, prevention, the need for prompt medical attention, and sexually transmitted disease (AIDS/HIV), legal penalties for sex crimes, and resources available on sexual assault.

PC 833 – Automated Victim Notification – New Section § 40-38-118

This act requires the district attorneys conference to establish an automated victim notification system. Once registered a victim will be automatically notified when the offender is transferred or assigned to another facility, is given a different security classification, is released on temporary leave or otherwise, or is discharged or has escaped. If for any reason the automated system fails to notify the victim, the victim does not have a cause of action against the state or the conference. Funds to establish this system should be sought from the United States Department of Justice.

PC 843 – Reporting Allegations of Sex Abuse of a Pregnant Minor

When a doctor or other medical personnel makes an initial diagnosis of pregnancy of an unemancipated minor, this individual must provide to the parent, if the parent is present, and with consent of the minor available information on how to report to the Department of Children's Services any occurrence of sex abuse which may have resulted in the pregnancy of the minor unless such a disclosure would violate the federal Health Insurance Portability and Accountability Act of 1996. Failure to provide the information will not subject to Class A misdemeanor as outlined in T.C.A. § 37-1-412.

PC 845 – Child Rape Protection Act of 2006

If a doctor has reasonable belief that a minor has been sexually abused because the doctor has been requested to perform an abortion on a minor who is under the age of 13, the doctor shall report the date and time of the abortion and provide a sample of the embryonic or fetal tissue extracted during the abortion to the appropriate law enforcement officer conducting the rape investigation. The first violation of this act is a civil penalty, carrying a fine of $500.00. A second violation is a civil penalty with a fine of not less than $1,000.00. A third or subsequent violation is a class A misdemeanor. If the person performing the abortion is a licensed doctor, a violation will be considered unprofessional conduct, which will also subject the doctor to disciplinary action.

PC 871 – Petitions for Minors Seeking Orders of Protection

This act permits caseworkers (advocates), working at a not-for-profit organization which receives funds for family violence and child abuse prevention and shelter pursuant to Title 71, Chapter 6, Part 2, to file a petition for an order of protection on behalf of unemancipated person under eighteen years of age. The caseworker may sign as long as the petition is not against the unemancipated minor's parent or legal guardian. If the petition is against the unemancipated minor's parent or guardian, unless the court finds that doing so would cause a threat of serious harm to the minor, a copy of the petition, notice of hearing and an ex parte order of protection shall also be served on the parents of the minor child. If the parents are not living together or jointly caring for the minor, then the information shall be served on the primary residential parent.

PC 890 – Child Protection Act of 2006

Section 2

This act amends T.C.A. § 36-1-113, mandating that all petitions filed in dependent and neglect cases be adjudicated in six months unless an extension is in the best interests of the child, and the judge must file a final order with findings and conclusions of law within (30) days of the hearing.

Section 3

This act amends T.C.A. § 36-1-119, and allows judges to enter a final order in an adoption proceeding if no appeal is taken within on year rather then two years, and a final order from an appeal must be entered in nine months as opposed to one year.

Section 4

The act creates a new statute T.C.A. § 37-5-105, requiring the Commissioner of the Department of Children's Services to develop a plan and recommendations regarding all reports of child maltreatment in consultation with the child sexual abuse task force, the Child Advocacy Centers, the Tennessee Council of Juvenile and Family Court Judges, the Tennessee Commission on Children and Youth, the Tennessee Supreme Court Administrative Office of the Court, the District Attorneys General Conference and the juvenile and criminal court clerks in developing the plan. The plan is to be submitted to the Judiciary Committees of the Senate and House of Representatives, the House of Representatives Children and Family Affairs Committee and the Select Committee on Children and Youth.

Section 5

This act rewrites the statutory rape law, T.C.A. § 39-13-506, creating different classes of statutory rape:

> **Mitigated statutory rape** is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least 15 but less than 18 years of age and the defendant is at least 4 but not more than 5 years older than the victim. Mitigated statutory rape is a Class E felony.
>
> **Statutory rape** is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least 13 but less than 15 years of age and the defendant is at least 4 years older than the victim or the victim is at least 15 but less than 18 years of age and the defendant is more than 5 years older than the victim. Statutory rape is a Class E felony.
>
> **Aggravated statutory rape** is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least 13 but less than 18 years of age and the defendant is at least 10 years older than the victim. Aggravated statutory rape is a Class D felony.

Section 6

The act changes the definition of parent found in T.C.A. § 40-39-202 and adds that a step-parent shall not be considered a parent if the victim was a minor less than 13 years of age.

Section 7

The act changes the definition of sex offenses for the purpose of the sexual offender registry, requiring that a statutory rape defendant must register if the defendant was an authority figure or the defendant has a least one prior conviction of mitigated statutory rape, statutory rape, or aggravated statutory rape.

Sections 8 and 9

The act also requires those committing spousal sexual battery under the old spousal rape statute prior to June 18, 2005 to register with the sex offender registry. Furthermore, it requires a defendant convicted of aggravated statutory rape or exploitation of a minor by electronic means (if the victim was less than (13) years of age) to register as a sex offender.

Sections 10 through 21

These sections of the act clarify certain sections of the sex offender registry act regarding registration requirements. Section 18 allows sex offenders who were convicted of statutory rape prior to July 1, 2006 to file a request for termination if such offender would not be required to register if such offense was committed on or after July 1, 2006.

Sections 22 through 24

The act also redefines rape of a child as "the unlawful sexual penetration of a victim by the defendant or the defendant by the victim, if such victim is older than 3 but younger than 13." Additionally, it creates a new statute, Aggravated Rape of a Child, which is "the unlawful sexual penetration of a victim by the defendant or the defendant by the victim, if the victim is 3 or younger." Aggravated rape of a child is a Class A felony, and there is no early release eligibility.

PC 897 – Sexual Battery by an Authority Figure

This act deletes the old definition of sexual battery of an authority figure found in T.C.A. § 39-13-527. The new T.C.A. § 39-13-527 defines sexual battery as the "unlawful sexual contact with a victim by the defendant or the defendant by a victim," accompanied by either of the following elements:

(1) The victim must be between the ages of 13 and 17; or

(2) The victim must be mentally challenged, mentally incapacitated or physically helpless regardless of age.

Additionally, the defendant must have been in a position of trust, or the defendant must have been in a position to supervise or discipline the victim because of the defendant's legal, professional, or occupational status, or the defendant must have held parental or custodial authority over the victim. The defendant must have used this trust, position or authority over the victim to accomplish the sexual contact. Sexual battery by an authority figure is a Class C felony.

PC 920 – Violations of Order of Protection Act

This act:

- moves the Violation of the Protective Order from the civil section of the code to the criminal;
- clarifies that it applies to victims of domestic abuse, sexual assault, and stalking;
- replaces an original section of the code that was deleted last year relative to jurisdiction for contempt actions;
- clarifies the notice requirement to victims;
- makes a violation of a protective order a misdemeanor crime of domestic violence; and
- clarifies the relationship between a violation of the protective order and conditions of release.

PC 927 – Statute of Limitations on Sex Cases Against Children

This act expands the statute of limitations of sex crimes. It allows a child victim to prosecute such a criminal offense no later than twenty-five years from the date the child turns eighteen years of age.

PC 932 – Class A Misdemeanor of Impersonating a Minor's Parent

Anyone who impersonates the parent or legal guardian of an unemancipated minor in order for the minor to obtain an abortion commits a Class A misdemeanor. The person performing the abortion must obtain written document, other than the consent itself, which establishes the relationship of the parent or guardian to the minor. This documentation and the signed consent shall be kept for one year. If the person performing the abortion does not keep this information, it is a Class B misdemeanor, punishable by a fine. But if the person failed to obtain the required information due to the fact that there was a medical emergency and the abortion had to be performed, there is no violation.

PC 939 – Criminal Violations of Abuse and Neglect

Anyone who intentionally abuses or neglects a child under the age of eighteen and negatively affects the child's welfare and health commits a Class A misdemeanor. If the child is under the age of six, the penalty is a Class E felony.

PC 967 – Domestic Abuse Resulting in Death (Second Degree Murder)

This act expands the definition of second degree murder, stating that if someone intentionally engages in multiple incidents of domestic abuse, assault, or infliction of bodily injury against a single victim, the judge or jury may conclude that the defendant knew that the multiple incidents were reasonably certain to cause death, regardless of whether a single incident would have caused death.

PC 973 – Statutory Rape by an Authority Figure

Statutory rape by an authority figure is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim if the victim is at least 13 but less than 18 and the defendant is at least 4 years older than the victim. The defendant must have been in a position of trust, or must have had supervisory or disciplinary power over the victim. This could have come from the defendant's legal, professional, or occupational status. The defendant must have used this position of trust or power to accomplish the sexual penetration. It is also considered statutory rape by an authority figure if the defendant had parental or custodial authority over the victim and used it to accomplish the sexual penetration. This offense is a Class C felony. Any person who is found guilty or pleads guilty to such offense cannot obtain probation or judicial diversion.