

HOUSE BILL 2007

By Jernigan

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 44, to create the "Tennessee
Animal Abuser Registration".

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 39, is amended by adding the following as a new part:

40-39-401.

This part shall be known and may be cited as the "Tennessee Animal Abuser Registration Act".

40-39-402.

(a) The general assembly finds and declares that:

(1) Studies in psychology, sociology and criminology have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty;

(2) The federal bureau of investigation has recognized this connection since the 1970s, when its analysis of the lives of serial killers suggested that most had killed or tortured animals during their life;

(3) Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse, leading the American Psychiatric Association to consider animal cruelty as one (1) of the diagnostic criteria of conduct disorder;

(4) Persons convicted of these offenses involving cruelty and violence have a reduced expectation of privacy because of the public's interest in public safety;

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

(6) The abuser is subject to specified terms and conditions that are implemented at sentencing, or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year.

(b) The general assembly also declares, however, that in making information about certain abusers available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those abusers.
40-39-403.

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

(1) "AAR" means the TBI's centralized record system of animal abuser registration;

(2) "Abuser" or "animal abuser" means a person who has been convicted in this state of committing an animal abuse offense; or has another qualifying conviction;

(3) "Animal abuse offense" means the commission of any act that constitutes the criminal offense of:

(A) Aggravated cruelty to animals, under § 39-14-212;

(B) Animal fighting, under § 39-14-203, where the defendant's act constituted a felony; and

(C) Bestiality, under § 39-14-214.

(4) "Board" means the Tennessee board of parole;

(5) "Companion animal" means any dog or cat as defined in title 44, chapter 17, part 7;

(6) "Conviction" means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. A conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including court-martial conducted by the armed forces of the United States, and a conviction in any other state of the United States, other jurisdiction, or other country. A conviction for an offense committed in another jurisdiction that would be classified as an animal abuse offense under subdivision (3), if committed in this state, shall be considered a conviction for the purposes of this part. Conviction includes a disposition of pretrial diversion under § 40-15-105, a disposition of judicial diversion under § 40-35-313, or the equivalent dispositions from other jurisdictions;

(7) "Designated law enforcement agency" means any law enforcement agency that has jurisdiction over the primary or secondary residence, place of employment, or, for abusers on supervised probation or parole, the board or court ordered probation officer;

(8) "Employed or practices a vocation" means any full-time or part-time employment in the state, with or without compensation, or employment that

involves counseling, coaching, teaching, supervising, or working with minors in any way, regardless of the period of employment, whether the employment is financially compensated, volunteered or performed for the purpose of any government or education benefit;

(9) "Institution of higher education" means a public or private:

(A) Community college;

(B) College;

(C) University; or

(D) Independent postsecondary institution;

(10) "Law enforcement agency of any institution of higher education" means any campus law enforcement arrangement authorized by § 49-7-118;

(11) "Local law enforcement agency" means:

(A) Within the territory of a municipality, the municipal police department;

(B) Within the territory of a county having a metropolitan form of government, the metropolitan police department; or

(C) Within the unincorporated territory of a county, the sheriff's office;

(12) "Minor" means any person under eighteen (18) years of age;

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

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

(15) "Relevant information deemed necessary to protect the public" means that information set forth in § 40-39-407(d)(1)-(10);

(16) "Resident" means any person who abides, lodges, resides, or establishes any other living accommodations in this state;

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

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

(19) "TBI registration form" means the Tennessee animal abuser registration;

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

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

(22) "Within five (5) business days" means a continuous five-day period, not including Saturdays, Sundays, or federal or state holidays.

40-39-404.

(a)

(1) Within five (5) business days of establishing or changing a primary or secondary residence, establishing a physical presence at a particular location, or

becoming employed or practicing a vocation in this state, any abuser who, at the time the abuser establishes such physical presence is on probation, parole or any other alternative to incarceration, shall register in person, as required by this part. Likewise, within five (5) business days of release on probation or any other alternative to incarceration, excluding parole, the abuser shall register in person, as required by this part.

(b)

(1) An abuser who is incarcerated in this state in a local, state, or federal jail, or a private penal institution shall, within five (5) business days prior to the abuser's release, register in person, completing and signing a TBI registration form, under the penalty of perjury, pursuant to § 39-16-702(b)(3), as follows:

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

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

(2) After registering with the incarcerating facility as provided in subdivision (b)(1), an abuser who is incarcerated in this state in a local, state, or federal jail, or a private penal institution shall, within five (5) business days after the abuser's release from the incarcerating institution, report in person to the abuser's registering agency, unless the place of incarceration is also the person's registering agency.

(c) An abuser from another state, jurisdiction, or country who has established a primary or secondary residence within this state, or has established a physical presence at a particular location, shall, within five (5) business days of establishing residency or a physical presence, register in person with the designated law enforcement agency,

completing and signing a TBI registration form, under the penalty of perjury, pursuant to § 39-16-702(b)(3).

(d) An abuser from another state, jurisdiction, or country, who is not a resident of this state, shall, within five (5) business days of employment, register in person, completing and signing a TBI registration form, under the penalty of perjury, pursuant to § 39-16-702(b)(3), with the sheriff in the county or the chief of police in the municipality within this state where the abuser is employed or practices a vocation.

(e) An abuser from another state, jurisdiction, or country, who becomes a resident of this state, pursuant to the interstate compact provisions of title 40, chapter 28, part 4, shall, within five (5) business days of entering the state, register in person with the board, completing and signing a TBI registration form, under the penalty of perjury, pursuant to § 39-16-702(b)(3), in addition to the requirements of title 40, chapter 28, part 4, and the animal abuser directives from the board.

(f) Abusers who reside in nursing homes and assisted living facilities, and abusers committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities, are exempt from this requirement, as otherwise provided by this part.

(g) An abuser who indicates to a designated law enforcement agency on the TBI registration form the abuser's intent to reside in another state, jurisdiction, or country, and who then decides to remain in this state, shall, within five (5) business days of the decision to remain in the state, report in person to the designated law enforcement agency and update all information pursuant to subsection (h).

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

(1) Complete name and all aliases;

(2) Date and place of birth;

(3) Social security number;

(4) State of issuance and identification number of any valid driver license or licenses, or if no valid driver license card is held, any state or federal government issued identification card;

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

(6) Animal abuse offenses for which the registrant has been convicted and the county and state of each conviction;

(7) Current physical address and length of residence at that address, which shall include any primary or secondary residences. For the purpose of subdivision (h)(7), a post office box number shall not be considered an address;

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

(9) Any vehicle, mobile home, trailer, or manufactured home, used or owned by an abuser, including descriptions, vehicle identification numbers, and license tag numbers;

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

(11) Race and gender; and

(12)

(A) Any other registration information, including fingerprints and a current photograph of the abuser, vehicles and vessels, as referred to in subdivisions (h)(9) and (10), as may be required by rules promulgated by

the TBI, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(B) The TBI shall utilize the same standardized specifications for photographing an abuser for purposes of this registry as it currently does for the photographing of a sexual offender or violent sexual offender pursuant to part 2 of this chapter. The TBI shall disseminate such information to all applicable law enforcement agencies, correctional institutions and any other agency that may be called upon to register an abuser.

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

(j) The abuser's signature on the TBI registration form creates the presumption that the abuser has knowledge of the registration requirements of this part.

(k)

(1) Any animal abuser registering for the first time pursuant to this part shall, at the time of initial registration, pay to the registering agency a registration fee of two hundred seventy-five dollars (\$275).

(2)

(A) If the registering agency finds that the abuser is unable to pay the registration fee at the time of registration but will be able to pay at a later time, the agency may defer such payment for a period not to exceed three (3) months or may establish an installment payment plan for the registration fee.

(B) If the registering agency finds that the abuser is unable to pay the registration fee at the time of registration and will continue to be unable to pay such fee prior to the abusers annual verification of information, the registering agency may waive payment of the registration fee.

(3) The registering agency shall retain twenty-five dollars (\$25.00) of the registration fee for the sole purpose of defraying the costs of administering this part. The registering agency shall transmit the remainder of the registration fee to the TBI to be used solely to defray the costs of implementing and administering this part.

40-39-405.

(a) The TBI shall maintain and make available a connection to the AAR, for all criminal justice agencies with TIES internet capabilities, by which registering agencies shall enter original, current and accurate data required by this part. The TBI shall provide viewing and limited write access directly to the AAR through the TIES internet to registering agencies for the entry of record verification data, changes of residence, employment, or other pertinent data required by this part, and to assist in abuser identification. Registering agencies should immediately, but in no case to exceed twenty-four (24) hours from registration, enter all data received from the abuser as required by the TBI and § 40-39-404(h), into the TIES internet for the enforcement of this part by TBI, designated law enforcement agencies, TDOC, private contractors with TDOC, and the board.

(b) Abusers who reside in nursing homes and assisted living facilities, and abusers committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities, shall be exempted from the in-

person reporting, fingerprinting, and administrative cost requirements. However, it shall be the responsibility of the abuser, the abuser's guardian, the person holding the abuser's power of attorney, or in the absence thereof, the administrator of the facility, to report any changes in the residential status to TBI headquarters in Nashville by United States postal service.

40-39-406.

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

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

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

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

(A) Fully explained, and the abuser understands, the registration requirements and sanctions of this part and the current animal abuser directives established by the board;

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

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

(2) Immediately, but in no case to exceed twenty-four (24) hours from registration, enter all data received from the abuser, as required by the TBI and § 40-39-404(h), into the TIES Internet. The officer or employee shall, within three (3) days, send by United States postal service the signed and completed TBI registration form to TBI headquarters in Nashville. The photographs of the abuser, vehicles and vessels, and the fingerprints should also be sent by United States postal service within three (3) days, if not electronically submitted to TBI headquarters in Nashville. The registering agency shall retain a duplicate copy of the TBI registration form as a part of the business records for that agency.

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

service within three (3) days, if not electronically submitted to TBI headquarters in Nashville.

(e) If the abuser is placed on unsupervised probation, the court shall fully explain to the abuser, on the court record, the registration requirements, and sanctions of this part. The court shall then order the abuser to report within five (5) business days, in person, to the appropriate registering agency to register as required by the provisions of this part.

(f) Through appropriate public information activities as determined by the TBI, the TBI shall attempt to ensure that all abusers, including those who move into this state, are informed and periodically reminded of the registration requirements and sanctions of this part.

40-39-407.

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

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

(c) Notwithstanding any law to the contrary, officers and employees of the TBI, local law enforcement, courts, probation and parole, the district attorneys general and

their employees, and other public officers and employees assigned responsibility for abusers' supervised release into the community shall be immune from liability relative to their good faith actions, omissions, and conduct pursuant to this part.

(d) For all animal abuse offenses covered by this part, the information concerning a registered abuser set out in subdivisions (d)(1)-(10) shall be considered public information. In addition to making the information available in the same manner as public records, the TBI shall prepare and place the information on the state's Internet homepage. The following information concerning a registered abuser is public:

(1) The abuser's complete name, as well as any aliases;

(2) The abuser's date of birth;

(3) The animal abuse offense or offenses of which the abuser has been convicted;

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

(5) The abuser's race and gender;

(6) The most recent photograph of the abuser that has been submitted to the TBI AAR;

(7) The abuser's driver license number and issuing state, or any state or federal issued identification number; and

(8) The abuser's parole or probation officer.

(e) The TBI has the authority to promulgate any necessary rules to implement and administer this section. These rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. 40-39-408.

(a) After termination of active supervision on probation, parole, or any other alternative to incarceration, an abuser required to register under this part may file a request for termination of registration requirements with TBI headquarters in Nashville.

(b) Upon receipt of the request for termination, the TBI shall review documentation provided by the abuser and contained in the abuser's file and the AAR, to determine whether the abuser has complied with the provisions of this part. In addition, the TBI shall conduct fingerprint-based state and federal criminal history checks, to determine whether the abuser has been convicted of any additional animal abuse offenses. Upon the determination that the abuser is in compliance with the requirements of this section, the abuser shall no longer be required to comply with this part.

(c) If it is determined that the abuser has been convicted of any additional animal abuse offenses during the ten-year period or has not substantially complied with this part, the TBI shall not remove the abuser's name from the AAR and shall notify the abuser that the abuser has not been relieved of the provisions of this part.

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

(e)

(1) Notwithstanding the provisions of this section, an abuser required to register under this part shall continue to comply with the registration

requirements for the life of that abuser, if that abuser has one (1) or more prior convictions for an animal abuse offense.

(2) As used in subdivision (e)(1), "prior conviction" means any conviction for an animal abuse offense that occurred prior to the date of the offense for which the abuser is currently required to register.

40-39-409.

(a) It is an offense for an abuser to knowingly violate any provision of this part.

Violations shall include, but not be limited to, the following:

- (1) Failure of an abuser to timely register;
- (2) Falsification of registration information;
- (3) Failure to timely disclose required information to the designated law enforcement agency;
- (4) Failure to sign a TBI registration form;
- (5) Failure to pay the initial registration fee or the annual administrative costs, if financially able; and
- (6) Failure to timely report to the designated law enforcement agency upon release after reincarceration.

(b) A violation of this part is a Class E felony punishable by fine only. All fines collected for violations of this part shall be earmarked for the TBI and used exclusively by the TBI to defray its costs of implementing and administering this part.

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

(d) In a prosecution for a violation of this section, upon the request of a district attorney general, law enforcement agency, the board of probation and parole, or its

officers, or a court of competent jurisdiction, and for any lawful purpose permitted by this part, the records custodian of AAR shall provide the requesting agency with certified copies of specified records being maintained in the registry.

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

I, _____, HAVING BEEN APPOINTED BY THE DIRECTOR OF THE TENNESSEE BUREAU OF INVESTIGATION AS THE CUSTODIAN OF THE BUREAU'S CENTRALIZED RECORDS SYSTEM OF ANIMAL ABUSERS REGISTRATION (AAR), HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECORDS MAINTAINED WITHIN SAID REGISTRY.

SIGNATURE _____ TITLE _____ DATE _____

AFFIX THE BUREAU SEAL HERE

40-39-410.

Except as otherwise provided in § 40-39-408(a)-(d), no record shall be removed from the AAR, unless authorized by the TBI.

40-39-411.

Upon receipt of notice of the death of a registered abuser, the TBI shall remove all data pertaining to the deceased abuser from the AAR.

SECTION 2. For purposes of the TBI implementing the provisions of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, including registration of animal abusers, it shall take effect January 1, 2015, the public welfare requiring it.