

Tennessee's Violent Juvenile Sex Offender Registry

Jeanne Broadwell
General Counsel, TBI

March 12, 2015

- Tennessee's Sexual Offender Registry began in 1995.
- Violent juvenile offenders were added in 2011 in order for Tennessee to become compliant with the national Adam Walsh Act.

Definition

Violent juvenile sexual offender is defined as a person 14 years old or more but less than 18 years old who has been adjudicated delinquent of any of the following offenses that were committed on or after July 1, 2011:

1. Aggravated rape;
2. Rape;
3. Rape of a child if the victim is at least 4 years younger than the offender;
4. Aggravated rape of a child; or
5. Criminal attempt to commit any of the offenses listed above.

2014 Attorney General's Opinion

2014 Attorney General's Opinion interpreted the law to say that the 14-18 age range applies to the offender's age at the time of adjudication rather than commission of offense. That opinion would mean, for example, that a child who committed one of the qualifying offenses at age 13 would have to register if he/she was adjudicated delinquent of the offense after his/her 14th birthday.

- That was not the legislative intent, so Senate Bill 599/House Bill 534 has been filed to correct that issue.
- That bill clarifies that the juvenile must be 14–18 at time of commission of offense in order to qualify for the registry.

In 2014 our legislature passed Public Chapter 770, which added the offenses of Aggravated Sexual Battery and Attempt to Commit Aggravated Sexual Battery committed on or after July 1, 2014.

- Tennessee's Violent Juvenile Sex Offender Registry (VJSOR) also includes juvenile offenders who are required to register in another jurisdiction prior to their presence in Tennessee.
- Many of them were adjudicated delinquent of offenses that occurred before July 1, 2011.

- Information concerning violent juvenile sexual offenders is confidential, and these offenders can petition for removal from the VJSOR when they reach age 25.
- They must provide fingerprints, and if they have not been adjudicated/convicted of a subsequent qualifying sexual, violent sexual or violent juvenile sexual offense, they shall be removed from the VJSOR.

- However, if a registered juvenile is adjudicated delinquent of a subsequent violent juvenile sexual offense, he/she is required to remain on the VJSOR for life.
- In this situation the information concerning the offender becomes public on his/her 18th birthday.

Likewise, if a registered juvenile is convicted of a sexual or violent sexual offense after turning 18, he/she is required to remain on the VJSOR for life, and the offender's information that was formerly confidential becomes public.

Also, a registered juvenile offender whose victim was 12 or younger is required to remain on the VJSOR for life *unless* he/she is only registered in Tennessee due to a requirement to register in another jurisdiction. (e.g., a juvenile required to register in TN due to requirement to register in another state for rape of a 5 year old in 2008).

Registered juveniles must report to their registering agencies quarterly and any time that their registration information changes (e.g., new address, new job, etc.)

TCA 37-1-127 (f) provides:

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

- This is *not* a requirement for adult offenders.
- In fact, a case from the Tennessee Supreme Court holds that the court is *not* required to advise an adult offender about his/her requirement to register as a consequence of his/her guilty plea because the registry is remedial and regulatory, not punitive.

Restrictions on Registered Juveniles

TCA 40-39-211(b) states:

(b) No sexual offender, violent sexual offender, *or violent juvenile sexual offender*, as those terms are defined in TCA 40-39-202, shall knowingly:

(1) Reside within one thousand feet (1000') of the property line on which the offender's former victims or the victims' immediate family members reside;

Restrictions on Registered Juveniles (cont'd)

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

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

Restrictions on Registered Juveniles (cont'd)

However, TCA 40-39-211 (i) states:

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

TCA 40-39-215 states:

- (a) While mandated to comply with the requirements of this chapter, it is an offense for a sexual offender, violent sexual offender, *or a violent juvenile sexual offender*, as those terms are defined in TCA 40-39-202, whose victim was a minor, to knowingly:
 - 1) Pretend to be, dress as, impersonate or otherwise assume the identity of a real or fictional person or character or a member of a profession, vocation or occupation while in the presence of a minor or with the intent to attract or entice a minor to be in the presence of the offender;

TCA 40-39-215 (cont'd)

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

TCA 40-39-215 (cont'd)

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

TCA 40-39-215 (cont'd)

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

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

Questions?

Jeanne Broadwell
General Counsel, TBI
(615)744-4208