1-2-114. Reenactment of supplemental and replacement volume material into code.

(a) **Reenactment of the Acts of the 2020 Sessions of the General Assembly.**

(1) This compilation of laws together with the supplemental reenactments set out in subdivision (b)(1) shall be deemed amendatory.

(2) This compilation shall be deemed a reenactment of the general acts of a permanent nature enacted at the 2020 regular and extraordinary sessions of the general assembly to the extent codified by the codification act. The sections so reenacted shall be construed as continuations of the previous laws so reenacted, and pending litigation, criminal prosecutions and statutes of limitations shall not be affected by such reenactments.

(3) Each section of this reenactment bearing the same number as a section appearing in the Tennessee Code as enacted in 1955 or in supplemental reenactments of the code is deemed to be in substitution for such section. Statutory references in any title, chapter, or section of the Tennessee Code shall be deemed to be references to the applicable provisions of law, and any change or rearrangements in numbering, division, or placement of the actual title, chapter, or section referred to shall not affect the validity of such references. Where only a portion of a section appears in this reenactment, such portion is deemed to be either in substitution of the same portion appearing in the Tennessee Code or supplemental reenactment or an addition to such section. Where section numbers of the Tennessee Code or supplemental reenactments are followed by "Repealed" or "Superseded", they are deemed repealed unless limiting or restricting language follows the word "Repealed" or "Superseded", in which latter event such repeal or supersession shall be limited or restricted in accordance with such language. Where section numbers of the Tennessee Code or supplemental reenactments are followed by "Unconstitutional" or are noted as having been found unconstitutional, this is reflective of a definitive court decision on the constitutionality of that section. Clauses, preambles, captions, statements of legislative intent, severability or reverse-severability clauses omitted from codification pursuant to § 1-1-108, remain valid in construing legislative intent of the codified portions of the act notwithstanding that the omitted portions of the act were not codified.

(4) All public acts of a general and permanent nature passed at the 2020 sessions of the general assembly, to the extent codified in the code, are repealed except those laws excepted by § 1-2-105 of the Tennessee Code.

(5) The enrolled draft of this reenactment shall, upon approval of this statute by the governor, be deposited in the office of the secretary of state, and shall be carefully preserved by that officer as an official reenactment of supplemental material to the Tennessee Code.

(6) All provisions of the Tennessee Code as enacted by chapter 6 of the Public Acts of 1955 and the supplemental reenactments set out in subdivision (b)(1) referring generally to such code, including the provisions of chapter 3 of this title, shall be likewise applicable to the sections of this reenactment and to prior supplemental reenactments.

(7) In case of any conflict between the acts of the 2021 session of the general assembly, or any extraordinary session occurring after the 2020 regular session of the general assembly, and this reenactment, the former

shall be controlling regardless of the respective dates of passage or approval.

(8) All references and amendments in the acts of the 2021 session of the general assembly to code sections included in this reenactment shall be deemed to be references or amendments to provisions of law as stated in this reenactment.

(b) **Reenactment of the Acts of the 1955 Through 2020 Sessions of the General Assembly.**

(1)(A) The supplemental material enacted by chapter 1 of the Public Acts of 1959, chapter 1 of the Public Acts of 1961, chapter 1 of the Public Acts of 1963, chapter 1 of the Public Acts of 1965, chapter 1 of the Public Acts of 1967, chapter 1 of the Public Acts of 1969, chapter 354 of the Public Acts of 1970, chapter 1 of the Public Acts of 1971, chapter 441 of the Public Acts of 1972, chapter 1 of the Public Acts of 1973, chapter 414 of the Public Acts of 1974, chapter 1 of the Public Acts of 1975, chapter 382 of the Public Acts of 1976, chapter 1 of the Public Acts of 1977, chapter 496 of the Public Acts of 1978, chapters 1 and 145 of the Public Acts of 1979, chapter 444 of the Public Acts of 1980, chapter 1 of the Public Acts of 1981, chapter 543 of the Public Acts of 1982, chapter 1 of the Public Acts of 1983, chapter 483 of the Public Acts of 1984, chapter 2 of the Public Acts of 1985, chapters 523 and 786 of the Public Acts of 1986, chapter 4 of the Public Acts of 1987, chapter 458 of the Public Acts of 1988, chapter 5 of the Public Acts of 1989, chapter 668 of the Public Acts of 1990, chapter 28 of the Public Acts of 1991, chapter 528 of the Public Acts of 1992, chapter 1 of the Public Acts of 1993, chapter 543 of the Public Acts of 1994, chapter 1 of the Public Acts of 1995, chapter 554 of the Public Acts of 1996, chapter 1 of the Public Acts of 1997, chapter 574 of the Public Acts of 1998, chapter 235 of the Public Acts of 1999, chapter 574 of the Public Acts of 2000, chapter 52 of the Public Acts of 2001, chapter 491 of the Public Acts of 2002, chapter 1 of the Public Acts of 2003, chapter 437 of the Public Acts of 2004, chapter 1 of the Public Acts of 2005, chapter 507 of the Public Acts of 2006, chapter 1 of the Public Acts of 2007, chapter 607 of the Public Acts of 2008, chapter 2 of the Public Acts of 2009, chapter 624 of the Public Acts of 2010, chapter 41 of the Public Acts of 2011, chapter 582 of the Public Acts of 2012, chapter 1 of the Public Acts of 2013, chapter 530 of the Public Acts of 2014, chapter 27 of the Public Acts of 2015, chapter 569 of the Public Acts of 2016, chapter 30 of the Public Acts of 2017, chapter 536 of the Public Acts of 2018, chapter 1 of the Public Acts of 2019 and chapter 518 of the Public Acts of 2020 shall be deemed amendatory of, supplemental to and become part of the Tennessee Code enacted as chapter 6 of the Public Acts of 1955.

(B) The supplemental material reenacted by chapters 450 and 802 of the Public Acts of 1980, by chapters 5 through 13 of the Public Acts of 1981, by chapters 2, 3, 6, and 7 of the Public Acts of 1983, by chapters 487 and 488 of the Public Acts of 1984, by chapters 4 through 6 of the Public Acts of 1985, by chapters 1 through 3 of the Public Acts of 2006, and chapters 1 through 4 of the Public Acts of 2010 shall be deemed amendatory of, supplemental to and become part of the Tennessee Code enacted as chapter 6 of the Public Acts of 1955.

(C) The material contained in replacement volumes 9A (1983 edition), 12A (1983 edition), 6 (1984 edition), 2 (1985 edition), 2A (1985 edition),

2B (1985 edition), 11 (1986 edition), 3A (1987 edition), 12A (1987 edition), 12B (1987 edition), 8 (1987 edition), 8B (1988 edition), 3 (1988 edition), 10 (1988 edition), 10A (1989 edition), 10B (1989 edition), 12 (1989 edition), 9 (1990 edition), 10C (1990 edition), 11 (1990 edition), 7A (1990 edition), 6A (1991 edition), 7 (1991 edition), 2A (1991 edition), 9A (1991 edition), 12A (1992 edition), 3A (1992 edition), 2B (1992 edition), 8A (1992 edition), 11A (1993 edition), 10 (1993 edition), 3 (1993 edition), 8 (1993 edition), 4 (1994 edition), 10A (1994 edition), 2 (1994 edition), 12 (1994 edition), 8B (1995 edition), 12B (1995 edition), 6A (1996 edition), 8A (1996 edition), 9 (1996 edition), 12A (1996 edition), 7 (1997 edition), 7A (1997 edition), 10C (1997 edition), 11 (1997 edition), 2A (1998 edition), 2B (1998 edition), 10 (1998 edition), 12 (1998 edition), 3A (1999 edition), 3B (1999 edition), 9A (1999 edition), 4A (2000 edition), 5 (2000 edition), 8 (2000 edition), 10A (2000 edition), 6 (2001 edition), 6A (2001 edition), 8A (2001 edition), 8B (2001 edition), 12A (2001 edition), 3 (2002 edition), 8C (2002 edition), 9 (2002 edition), 10B (2002 edition), 2 (2003 edition), 7 (2003 edition), 7A (2003 edition), 12 (2003 edition), 10 (2004 edition), 11 (2004 edition), 11A (2004 edition), 12B (2004 edition), 2A (2005 edition), 2B (2005 edition), 6A (2005 edition) 9A (2005 edition), 7 (2006 edition), 7A (2006 edition), 7B (2006 edition), 12 (2006 edition), 12A (2006 edition), 1 (2007 edition), 1A (2007 edition), 6 (2007 edition), 8 (2007 edition), 8A (2007 edition), 9A (2008 edition), 9B (2008 edition), 9C (2008 edition), 10 (2008 edition), 10A (2008 edition), 4 (2009 edition), 9 (2009 edition), 10C (2009 edition), 13 (2009 edition), 6A (2010 edition), 7 (2010 edition), 7B (2010 edition), 11 (2010 edition), 2A (2011 edition) 2B (2011 edition), 3 (2011 edition), 3B (2011 edition), 12 (2011 edition), 12A (2011 edition), 3A (2012 edition), 5 (2012 edition), 7A (2012 edition), 8D (2012 edition), 9C (2012 edition), 12B (2012 edition), 8C (2013 edition), 9 (2013 edition), 10B (2013 edition), 11B (2013 edition), 11C (2013 edition), 12 (2013 edition) 12A (2013 edition), 2 (2014 edition), 6A (2014 edition), 6B (2014 edition), 7 (2014 edition), 7B (2014 edition), 9A (2014 edition), 2A (2015 edition), 2B (2015 edition), 2C (2015 edition), 6 (2015 edition), 11A (2015 edition), 3 (2016 edition), 9 (2016 edition), 9A (2016 edition), 10 (2016 edition), 10A (2016 edition), 1A (2017 edition), 4A (2017 edition), 6A (2017 edition), 9D (2017 edition), 11 (2017 edition), 7 (2018 edition), 7A (2018 edition), 7B (2018 edition), 10B (2018 edition), 11C (2018 edition), 3B (2019 edition), 7C (2019 edition), 8D (2019 edition), 10C (2019 edition), 12B (2019 edition), 3A (2020 edition), 8A (2020 edition), 9 (2020 edition), 9A (2020 edition), and 9D (2020 edition), shall be deemed amendatory of, supplemental to and become part of the Tennessee Code enacted as chapter 6 of the Public Acts of 1955, as though such material were specifically reenacted in its entirety.

(2) The supplemental reenactments set out in subdivision (b)(1) shall be deemed reenactments of the general acts of a permanent nature enacted at the sessions of the general assembly held in the years 1955 through 2020 which were codified therein. The sections so reenacted shall be construed as continuations of the previous laws so reenacted, and pending litigation, criminal prosecutions and statutes of limitations shall not be affected by such reenactments.

(3) Each section of the supplemental reenactments bearing the same number as a section appearing in the Tennessee Code as enacted in 1955

or in prior supplemental reenactments of the code is deemed to be in substitution for such section. Where only a portion of a section appears, such portion is deemed to be either in substitution of the same portion appearing in the Tennessee Code or prior supplemental reenactments or an addition to such section. Where section numbers of the Tennessee Code or supplemental reenactments are followed by "Repealed" or "Superseded", they are deemed repealed unless limiting or restricting language follows the word "Repealed" or "Superseded", in which latter event such repeal or supersession shall be limited or restricted in accordance with such language. Where section numbers of the Tennessee Code or supplemental reenactments are followed by "Unconstitutional" or are noted as having been found unconstitutional, this is reflective of a definitive court decision on the constitutionality of that section. Clauses, preambles, captions, statements of legislative intent, severability or reverse-severability clauses omitted from codification pursuant to § 1-1-108, remain valid in construing legislative intent of the codified portions of the act notwithstanding that the omitted portions of the act were not codified.

(4) All public acts of a general and permanent nature, to the extent codified in this act and the supplemental reenactments set out in subdivision (b)(1), which were passed prior to the 2020 session of the general assembly and after the 1953 session are repealed, except chapters 6 and 121 of the Public Acts of 1955, all of the supplemental reenactments set out in subdivision (b)(1), and those laws excepted by § 1-2-105 of the Tennessee Code.

(5) The enrolled draft of each supplemental reenactment shall, upon approval of the statute by the governor, be deposited in the office of the secretary of state, and shall be carefully preserved by that officer as an official enactment of supplemental material to the Tennessee Code.

(6) Title 47 of the Tennessee Code as enacted by chapter 6 of the Public Acts of 1955, as amended and supplemented by chapter 1 of the Public Acts of 1961 and chapter 1 of the Public Acts of 1963, is repealed in its entirety except as provided in § 47-1-110 [repealed]; provided, that the sections appearing in title 47, chapters 11-15 in the reenactment by chapter 1 of the Public Acts of 1965 shall be construed as continuations of the similar sections appearing in the former title 47, and pending litigation, criminal prosecutions and statutes of limitation shall not be affected by such repeal and reenactment.

(7) In case any act or portion of an act codified and reenacted as provided in subdivision (b)(1) is thereafter deleted from this code for reasons other than repeal, supersession, or unconstitutionality, the original act or portion of an act so removed from the code shall be revived and continued in the same force and effect it had as a separate act prior to codification, notwithstanding any action occurring under subsection (a).

(8) Legislative intent or effect which is dependent on the proposed placement of an act in the Tennessee Code shall not be affected by the actual codification of such material, and the general repealer contained in subdivision (a)(4) shall not affect such presumed intent.

1-3-113. Eighteen-year-olds — Legal responsibility — Alcoholic beverage restrictions on persons under twenty-one (21) years of age. [Effective until December 30, 2020. See version effective on January 1, 2021.]

(a) Notwithstanding any laws to the contrary, any person who is eighteen (18) years of age or older shall have the same rights, duties, and responsibilities as a person who is twenty-one (21) years of age, except as provided in subsection (b) relative to the rights to purchase, possess, transport, and consume alcoholic beverages, wine, or beer as those terms are defined in title 57.

(b) Notwithstanding the provisions of subsection (a), it is unlawful for any person under twenty-one (21) years of age to purchase, possess, transport or consume alcoholic beverages, wine, or beer, with the following exceptions:

(1) Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of such person's employment; and

(2) The provisions of § 39-17-705(1) shall not be affected by any provision of subsection (b), it being the intent of the general assembly that such provisions remain lawful and in full force and effect. Any such priest or minister may utilize and administer alcohol or wine at a communion service, bat mitzvah, bar mitzvah, or other similar religious service or ceremony, in accordance with the practices of such denomination or sect.

1-3-113. Eighteen-year-olds — Legal responsibility — Tobacco, smoking hemp, or vapor products and alcoholic beverage restrictions on persons under twenty-one (21) years of age. [Effective on January 1, 2021. See version effective until December 30, 2020.]

(a) Notwithstanding any laws to the contrary, any person who is eighteen (18) years of age or older shall have the same rights, duties, and responsibilities as a person who is twenty-one (21) years of age, except as provided in subsection (b) relative to the rights to purchase, possess, transport, and consume any tobacco, smoking hemp, or vapor products as those terms are defined in title 39 or alcoholic beverages, wine, or beer as those terms are defined in title 57.

(b) Notwithstanding subsection (a), it is unlawful for any person under twenty-one (21) years of age to purchase, possess, transport or consume tobacco, smoking hemp, or vapor products, alcoholic beverages, wine, or beer, with the following exceptions:

(1) Any person eighteen (18) years of age or older may transport, possess, sell, or dispense tobacco, smoking hemp, or vapor products, alcoholic beverages, wine, or beer in the course of such person's employment; and

(2) The provisions of § 39-17-705(1) shall not be affected by any provision of subsection (b), it being the intent of the general assembly that such provisions remain lawful and in full force and effect. Any such priest or minister may utilize and administer alcohol or wine at a communion service, bat mitzvah, bar mitzvah, or other similar religious service or ceremony, in accordance with the practices of such denomination or sect.

2-1-112. Restrictions on commission or board membership or service as campaign manager or treasurer or election official.

(a)(1) An elected official or an employee of a municipal, county, state, or federal governmental body or agency shall not serve as a member of a county election commission.

(2) A member of a county election commission shall not serve as the campaign manager or treasurer of any candidate's political campaign in a local, state, or federal election during the commissioner's term of office. A violation of this subdivision (a)(2) subjects the member to immediate removal from office by a majority vote of the state election commission. This subdivision (a)(2) does not prohibit a member of the county election commission from providing uncompensated advice on a one-on-one basis to a candidate or party officer, nor does it prohibit providing a financial contribution to a candidate or party organization.

(3) A candidate in an election shall not act in connection with that election as a member of any board or commission established under this title or as an election official.

(b) The following persons shall not serve as election officials:

(1) An employee of a county or city who works directly under the supervision of an elected official who is on the ballot;

(2) The spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election in that precinct or district. This subdivision (b)(2) disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision (b)(2) does not disqualify a person from serving as an election official if the candidate to whom the person is related is an unopposed candidate. For purposes of this subdivision (b)(2), an "unopposed candidate" includes an individual whose nomination to an office at a primary election is unopposed by any other candidate within the same political party; or

(3) A member of a reserve unit of the United States army, air force, marine corps or navy, or a member of the national guard who is on active duty.

2-2-137. Alternative electronic or microfilm registration system.

(a) Notwithstanding the provisions of this chapter to the contrary, a county election commission may adopt a supplemental system for maintaining registration records utilizing electronic, electromechanical or microfilm equipment. If the election commission exercises its option to scan or microfilm the original permanent record, the filmed or scanned record shall be the legal document of registration. If the election commission microfilms or scans the registration document, the original hard copy shall be retained, but may be retained at any location designated by the election commission.

(b) Beginning January 1, 2015, the coordinator of elections and the state election commission shall certify each voter registration system for purchase and use in the state. Subject to the concurrence of the state election commission, the coordinator of elections may make rules and policies as are necessary to carry out this subsection (b). In determining whether a voter registration system may be certified, the coordinator of elections and the state election commission shall consider, at a minimum, the following:

(1) The compatibility of the voter registration system with any statewide system being operated by the secretary of state's office;

(2) The history of ethical conduct in the sales of the voter registration system by the manufacturer or seller;

(3) The ability of the manufacturer or seller of the voter registration system to provide adequate professional assistance and service to the counties of the state; and

(4) The cyber security practices in place to protect the integrity of the voter registration process.

2-2-142. Training for individuals or organizations who conduct voter registration drives — Submission of voter registration forms — Restrictions regarding applicant's personal information — Penalties.

(a) For the purposes of this section, the term "voter registration drive" means to collect voter registration applications from another person and submit the collected application to the county or state election commission for the purposes of registering that person to vote, but does not include state or county governmental entities operating in the course and scope of their official duties.

(b) The coordinator of elections shall offer free voluntary training to individuals or organizations who conduct voter registration drives. The training shall, at a minimum, summarize the laws and procedures regarding voter registration. A list of those individuals or organizations who complete the training may be published on the secretary of state's website or published by any other means deemed appropriate by the secretary of state.

(c) No person or organization shall employ or compensate any person, nor shall any person receive any wages or compensation for registering voters based on the number of voters registered. Nothing in this section prohibits a person from being paid on an hourly or salaried basis to register voters.

(d) No person or organization shall establish quotas or a minimum number of completed voter registration forms to be collected by individuals conducting a voter registration drive.

(e) Any person or organization collecting a voter registration form submitted by an applicant during a voter registration drive shall, within fifteen (15) calendar days of receipt of the form, deliver or mail the form to the county election commission in which the applicant resides according to the address on the application or to the state election commission; provided, that if the date of the receipt of the form is within fifteen (15) calendar days of the voter registration deadline, the submitted forms must be delivered or mailed no later than the voter registration deadline. For the purposes of this subsection (e), a form shall be considered mailed on the date of the postmark stamped on the cover in which such document was mailed.

(f) Any person or organization other than a federal, state, or county governmental entity operating in the course and scope of its official duties who conducts a voter registration drive or operates an online voter registration platform is prohibited from copying, photographing, or in any way retaining, electronically or physically, personal identifying information collected on a voter registration application or entered into the online voter registration platform, including name, date and place of birth, residential address, mailing

address, email, phone number, and signature for any purpose other than voter participation, voter engagement, or voter turnout unless the person or organization informs the applicant how the applicant's personal information will be used by the person or organization and the applicant expressly consents in writing or electronically. The social security number provided on the voter registration application or entered into the online voter registration platform is confidential and shall not be copied, photographed, or in any way retained, electronically or physically, by any person other than election officials in their official capacity.

(g)(1) The state election commission may impose a maximum civil penalty up to fifty dollars ($50.00) for each violation of subsection (c), (d), (e), or (f).

(2) For any violation or violations, the state election commission shall send, by return mail, receipt requested, an assessment letter to the person or organization in a form sufficient to advise the person or organization of the factual basis of the violation or violations, the total civil penalty, and the date a response to the letter must be filed. Refusal of or failure to timely claim an assessment letter sent by return mail, receipt requested, constitutes acceptance of the assessment letter for purposes of service.

(3) To request a waiver of reduction in or to in any way contest a penalty imposed by the state election commission, a person or organization shall file a petition with the state election commission. Such petition may be considered as commencing a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(h) Any person or organization who provides or publishes erroneous or incorrect information regarding the qualifications to vote, the requirements to register to vote, whether an individual voter is currently registered to vote or eligible to register to vote, voter registration deadlines, or polling dates, times, and locations shall, upon discovery, immediately notify the appropriate county election commission and the coordinator of elections.

(i) The coordinator of elections and the state election commission are authorized to adopt policies or procedures and to promulgate rules and regulations to effectuate this section.

2-2-143. [Repealed.]

2-3-110. Procedures when emergency necessitates change to polling place location within 10 days of election day.

(a) As used in this chapter, "emergency" means an occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, that results in a polling place being unavailable or unsuitable for voting. A natural threat includes disease, outbreaks, and epidemics.

(b) Notwithstanding anything in this chapter to the contrary, a county election commission shall use the following procedures when an emergency necessitates a change to a polling place location within ten (10) days of an election day:

(1) A county election commission shall not change a polling place without approval of the coordinator of elections;

(2) If no alternative suitable site is available within a precinct, the county election commission may create emergency supersites by moving a polling place that is unavailable or unsuitable due to an emergency to another polling place in the county. To the extent practicable, the county election

commission should choose the nearest available and suitable polling place;

(3) The county election commission may designate the county election commission office or other centrally located site or sites for voting by any voter in the county;

(4) The county election commission shall provide notice of any changes as widely as possible under the circumstances, including, but not limited to, the media, county election commission website if the county maintains a website, secretary of state's website, and if possible, signage at each affected polling place.

2-4-102. Appointment of election officials and inspectors.

(a)(1) Not more than ninety (90) days nor less than ten (10) days before each election, the county election commission shall appoint the following minimum number of election officials to hold elections at each polling place: one (1) officer of elections, and three (3) judges. Two (2) of the judges appointed hereunder shall concurrently serve as precinct registrars, in accordance with § 2-12-202. In precincts where voting machines are used, any judge not appointed to serve as a precinct registrar shall concurrently serve as a machine operator for that polling place. Additional precinct registrars and machine operators may be appointed in accordance with § 2-4-105 as necessary to adequately staff the polling place. One (1) machine operator may be appointed to operate no more than two (2) voting machines.

(2) Except for the officer of elections, the county election commission may provide that an appointment applies to a specific term that begins or expires at designated times during the election day.

(b)(1) The county election commission may appoint for election day as many inspectors as it may deem necessary.

(2) If a statewide political party has no member on the county election commission and there is not at least one (1) election official appointed from its nominees under § 2-4-106 for each polling place for which it nominates officials, the county election commission shall, on request of the party's county primary board, appoint from that party's nominees under § 2-4-106 one (1) inspector for every thirty thousand (30,000) people in the county according to the 1970 federal census or any later federal census but not less than two (2) inspectors or more than ten (10).

(3) Inspectors represent the commission in its investigation of the conduct of elections. Inspectors shall report any irregularities to the county election commission and the county election commission shall promptly rule on the objections.

(4) No inspector may serve on election day who has not received the instruction provided under § 2-4-108.

2-4-103. Residence and age qualifications of election officials.

(a) Officers of elections, judges, machine operators, precinct registrars and assistant precinct registrars shall be registered voters and shall reside in the county in which they are appointed to serve.

(b) Inspectors shall be registered voters at a polling place in the county and shall be inhabitants of the county.

(c) In counties having a population of less than six hundred thousand (600,000) according to the federal census of 1970 or any later federal census,

the county election commission may appoint persons as precinct registrars who shall be registered voters at a polling place in the county and shall be inhabitants of the county.

(d)(1) In counties having a metropolitan form of government, the county election commission may appoint persons as precinct registrars who shall be registered voters at a polling place within each legislative district.

(2) Inspectors shall be registered voters at a polling place in the legislative district in those counties having a metropolitan form of government.

(e) Notwithstanding any other law to the contrary, a county election commission may appoint as an election official a person who has reached sixteen (16) years of age and who meets all other requirements to serve. This section does not prohibit a high school student appointed as a poll official from receiving compensation in addition to having an excused absence.

2-5-101. Time for filing — Required signatures — Failure to file — Filing office hours — Prohibited acts — Death or late withdrawal of candidates.

(a) Candidates shall qualify by filing all nominating petitions, including any duplicate nominating petitions, by the deadlines set out in the schedule in this section. The qualifying deadline for any office not included in this section shall be twelve o'clock (12:00) noon, prevailing time, on the third Thursday in the third calendar month before the election.

(1) Independent and primary candidates for any office to be filled at the regular November election for which a primary is required to be held at the regular August election shall qualify by filing such candidates' nominating petitions no later than twelve o'clock (12:00) noon, prevailing time, on the first Thursday in April.

(2) Independent and primary candidates for any office to be filled in a regular August general election for which a May primary has been called under § 2-13-203 shall qualify by filing their petitions for the August election no later than twelve o'clock (12:00) noon, prevailing time, on the third Thursday in February. In the event no May primary authorized under § 2-13-203 is called for any office to be filled in the regular August general election, then the candidates shall qualify by filing their petitions no later than twelve o'clock (12:00) noon, prevailing time, on the first Thursday in April. In presidential election years, if a political party calls for the county primary in March, the qualifying deadline for candidates in the primary and independent candidates for those offices shall be twelve o'clock (12:00) noon, prevailing time, on the second Thursday in December. Independent candidates for offices which will appear on the county primary ballot shall qualify by filing their petitions at the same time primary candidates qualify.

(3) Candidates in municipal elections held in conjunction with the regular August election shall file their nominating petitions no later than twelve o'clock (12:00) noon, prevailing time, on the first Thursday in April. Candidates in municipal elections held in conjunction with the presidential preference primary election shall file their nominating petitions no later than twelve o'clock (12:00) noon, prevailing time, on the second Thursday in December. Candidates in all other municipal elections shall file their nominating petitions no later than twelve o'clock (12:00) noon, prevailing time, on the third Thursday in the third calendar month before the election.

(4) In counties having a population in excess of six hundred thousand (600,000), according to the federal census of 1970 or any subsequent census, candidates in municipal elections will file their nominating petitions in accordance with time and date as prescribed for the August primary and November general election. When a special election is being held in conjunction with either a municipal August primary or November general election, the time of qualifying for candidates to the office for which the special election is being held shall conform and be governed by the same time and the same date prescribed for the municipal August primary or November general election; but in no way shall the time for qualifying specified by this subdivision (a)(4) be less than the qualifying time prescribed for the special election.

(b)(1) Nominating petitions shall be signed by the candidate and twenty-five (25) or more registered voters who are eligible to vote to fill the office. Nominating petitions for independent presidential candidates shall be signed by the candidate and twenty-five (25) or more registered voters for each elector allocated to the state. Each independent candidate must designate the full number of electors allocated to the state.

(2) The signer of a petition must include the address of the signer's residence as shown on the signer's voter registration card in order for that person's signature to be counted. In the event that the signer of a petition includes information on a nominating petition that exceeds the information contained on such person's voter registration card, the signature shall be counted if there is no conflict between the nominating petition and the voter registration card. If no street address is shown on the signer's voter registration card, that person's signature and address as shown on the voter registration card shall be sufficient. A street address shall be sufficient, and no apartment number shall be required.

(3) A person's regular signature shall be accepted just as the person's legal signature would be accepted. For example, for the purposes of this subsection (b), "Joe Public" shall be accepted just as "Joseph Q. Public" would be accepted.

(c) If a candidate does not file by the deadline specified in this section, or fails to file any duplicate petition required by § 2-5-104 by the deadline specified in this section, or the candidate's petition does not contain the signatures and residential addresses of twenty-five (25) or more registered voters eligible to vote to fill the office, the candidate's name shall not be printed on any official ballot for the election.

(d) Offices in which petitions are to be filed shall be open until four o'clock (4:00 p.m.) prevailing time on the final day of any qualifying period.

(e) The name of any candidate nominated by any political party by any method other than a primary election, for any office to be filled in a regular August election for which a March or May primary has been called under § 2-13-203 shall be certified by the party executive committee to the county election commission or county administrator of elections by the qualifying deadline for the respective primary as provided for elsewhere in this section. If no primary is held, party nominees shall be certified no later than twelve o'clock (12:00) noon, prevailing time, on the first Thursday in April.

(f)(1) It is unlawful for any person to qualify as a candidate in a primary election with more than one (1) political party in which such person seeks the same office.

(2) It is unlawful for any person to qualify as an independent candidate and as a primary candidate for the same office in the same year.

(3) No person defeated in a primary election or party caucus shall qualify as an independent for the general election.

(4) No candidate in a party primary election or party caucus may appear on the ballot in a general election as the nominee of a different political party or as an independent.

(5) No candidate, whether independent or represented by a political party, may be permitted to submit and have accepted by any election commission, more than one (1) qualifying petition, or otherwise qualify and be nominated, or have such candidate's name anywhere appear on any ballot for any election or primary, wherein such candidate is attempting to be qualified for and nominated or elected to more than one (1) state office as described in either § 2-13-202(1) or (2) or in article VI of the Constitution of Tennessee or more than one (1) constitutional county office described in article VII, § 1 of the Constitution of Tennessee or any other county-wide office, voted on by voters during any primary or general election.

(6) It is unlawful for a person to qualify as a candidate for any election if such person has failed to file any required report for which a civil penalty has been imposed under chapter 10 of this title.

(g)(1) If a candidate in a primary election or nonpartisan general election, after the qualifying deadline:

(A) Dies;

(B) Withdraws because of military call up;

(C) Withdraws because of physical or mental disability, such physical or mental disability being properly documented by competent medical authority;

(D) Withdraws because such candidate is forced to change residence by the candidate's employer for a job-related reason;

(E) Is declared ineligible or disqualified by a court or disqualified by the political party executive committee under § 2-5-204;

(F) Is declared disqualified by the peace officer standards and training (POST) commission pursuant to § 8-8-102(e); or

(G) Is declared disqualified by the Tennessee highway officials certification board pursuant to § 54-7-104;

leaving no candidates for nomination or office, additional candidates may qualify for the election or that nomination by filing their petitions as provided by law no later than twelve o'clock (12:00) noon, prevailing time on the fortieth day before the election. If any of these events occur within ten (10) days of the fortieth day, the qualifying deadline shall be twelve o'clock (12:00) noon, prevailing time on the tenth day following the death or withdrawal.

(2) Candidates may withdraw for reasons other than those listed in subdivision (g)(1); however, no additional candidates may qualify.

(h)(1) This subsection (h) shall be known and may be cited as the "Anti-Skullduggery Act of 1991."

(2) Notwithstanding any provision of this section to the contrary, additional candidates may qualify for an office by qualifying as provided by law no later than twelve o'clock (12:00) noon, prevailing time, on the seventh day after the original withdrawal deadline, if an incumbent of such office is a candidate for a primary or a nonpartisan general election and if such

incumbent dies or properly withdraws on the last day for qualifying or prior to twelve o'clock (12:00) noon, prevailing time, on the seventh day after the qualifying deadline.

(3) If an incumbent withdraws during the period specified in subdivision (h)(2), this subsection (h) shall operate to:

(A) Extend the period to qualify for the primary election of each political party holding a primary for that office;

(B) Extend the period during which a political party that would have been authorized by law to nominate a candidate for the office by a means other than primary election, but did not do so prior to the withdrawal of the incumbent; and

(C) Extend the period a person may qualify for a nonpartisan general election.

(4) Any request to withdraw by such additional candidates shall be filed no later than twelve o'clock (12:00) noon, prevailing time, on the fourth day after the new qualifying deadline.

(i) Notwithstanding subdivisions (f)(1), (2), and (4), if an incumbent member of the general assembly who has filed a petition for reelection is disqualified by the political party executive committee under § 2-5-204, then the incumbent member of the general assembly may file a new petition for the same office as a candidate for another political party or as an independent candidate. Notwithstanding the filing deadlines in this section, an incumbent member of the general assembly filing a petition under this subsection (i) shall file the petition no later than ninety (90) days before:

(1) The primary election, if the incumbent is filing a petition as a candidate for another political party; or

(2) The general election, if the incumbent is filing a petition as an independent candidate.

2-5-207. Form of paper ballots.

(a) The state election commission shall establish a uniform maximum and minimum width for all paper ballots. Paper ballots shall be of such length and width as the county election commission deems necessary to contain the offices, names of the candidates, and questions required to be printed, with a stub containing a number.

(b) On the front or back of paper ballots shall be conspicuously printed the words, "Official Ballot for (General) (_____ Party Primary) Election," followed by the designation of the polling place for which the ballot is prepared, the date of the election, and the names of the members of the county election commission holding the election. The size of the print may not be less than ten (10) point.

(c) Except in counties using an electronic ballot marking system or ballot-on-demand technology approved by the coordinator of elections, all paper ballots for use in a polling place must be fastened together in convenient numbers in books so that each ballot may be detached and removed separately. Each stub must be attached to the ballot so that when the ballot is folded, the stub can be detached without injury to the ballot and without exposing its contents. Each stub must be serially numbered by the printer, and no two (2) ballots for use in a single precinct may have the same number. The commission shall keep a record of the numbers of the ballots supplied to each polling place.

(d)(1) On paper ballots, the titles of the offices shall be printed vertically on the left side of the ballot. There shall be a sufficient number of columns to list all political party nominees, independents and uncontested races, each political party and the independents having a column of its own. Any candidate whose name is to be placed on the ballot by virtue of party nomination shall be listed in the political column of the candidate's party, opposite the title of the office the candidate seeks. The independent candidate's name shall also be placed opposite the title of the office such candidate seeks. One (1) column will be left blank for each race, for the purpose of write-in candidates.

(2) Whenever primary elections are being held to select nominees, the names of the candidates shall be listed in alphabetical order, according to the initials of their surname, beginning with the first initial, in the column of their respective political party.

(e) The county election commission of each county shall prepare a sample ballot of all candidates listed in § 2-13-202 and shall mail this sample ballot to the coordinator of elections for approval. No ballot shall be printed or funds expended therefor by any county until such approval has been granted.

(f) The coordinator of elections shall determine distinguishable colors to be used in the printing of the ballot envelopes for early voting and absentee voting. Both envelopes shall include a place for the voter's precinct and district number and a statement for the administrator of elections to sign stating that the voter's signature has been verified and appears to be valid. The absentee voting ballot envelope need not contain a certificate for an attesting official.

2-7-114. Voting by paper ballots.

(a) When the voter is to vote by paper ballot, the voter shall then present the ballot application to the judge who is in charge of paper ballots. The judge shall write the ballot number of each ballot the voter is entitled to on the ballot application, give the ballot or ballots to the voter, and give the ballot application to the judge who is assigned to deposit ballots in the ballot box. The judge shall, upon demand of any voter at the time the voter receives the ballot, tell the voter the order of the offices on the ballot.

(b)(1) The voter shall then go to a place where the voter may mark the ballot in complete secrecy and privacy and shall prepare the ballot by making in the appropriate place a cross (X) or other mark opposite the name of the candidate of the voter's choice for each office to be filled, or by filling in the name of the candidate of the voter's choice in the blank space provided, and by making a cross (X) or other mark opposite the answer the voter desires to give on each question. Before leaving the place of secrecy and privacy, the voter shall fold the ballot so that the votes cannot be seen but so that the information printed on the back of the ballot and the numbered stub are plainly visible.

(2) Any voter who fills in or writes in the name of a candidate whose name is not printed on the ballot shall not be required to make a cross (X) or other mark next to such person's name in order for the vote to be counted.

(c)(1) The voter shall state the voter's name and present the folded ballot to the judge assigned to receive and deposit the ballots. The judge shall compare the ballot number on the stub with the ballot number on the voter's ballot application. If the ballot numbers are the same, the judge shall tear off

the stub, attach the ballot stub to the voter's application for ballot and direct the voter to deposit the ballot in the ballot box, unless the voter is successfully challenged. The judge shall file all ballot applications and ballot stubs in the order in which they are received. Notwithstanding any other law, the procedure described herein shall govern the voting process in counties using the optical scan voting system.

(2) In counties using an electronic ballot marking system or ballot-on-demand technology approved by the coordinator of elections, a ballot stub number is not required to be preprinted on the paper ballot. The election official shall file all ballot applications in the order in which they are received. When a ballot stub number is not preprinted on the paper ballot, the election commission must reconcile the number of applications issued in the polling place with the number of ballots recorded by the optical scanner used to tabulate the ballots in the polling place. Whenever the total number of applications issued differs from the total number of ballots scanned in a tabulator used in the polling place, the election commission shall complete a written report explaining the difference.

(3) If the voter is voting a provisional ballot pursuant to § 2-7-112(a)(3) and (e), the voter shall state the voter's name and present the folded ballot to the judge assigned to receive and deposit the provisional ballots. The judge shall compare the provisional ballot number on the stub with the provisional ballot number on the voter's ballot application. If the provisional ballot numbers are the same, the judge shall tear off the stub and attach the ballot stub to the voter's application for ballot. The judge shall file all ballot applications and ballot stubs in the order in which they are received. Unless the voter is successfully challenged, the judge shall direct the voter to deposit the provisional ballot into the provisional ballot envelope that contains the provisional ballot affidavit. The judge shall ensure that the provisional ballot affidavit has been completed and signed by the voter and direct the voter to deposit the provisional ballot, in its envelope, in an absentee ballot box that satisfies the requirements for absentee ballot boxes and that has been locked pursuant to § 2-6-311.

2-7-143. Tennessee Freedom of Speech Act.

(a) This section shall be known and may be cited as the "Tennessee Freedom of Speech Act."

(b) Notwithstanding any law to the contrary, during the period beginning sixty (60) days before a general election until the day after the next subsequent general election:

(1) This state, a local government, or any other political subdivision of this state:

(A) Shall not regulate the shape or quantity of political or campaign posters or signs placed on private property that is located more than one hundred feet (100') from a polling place if the signs or posters are placed on the property by the owner of the property or any lawful resident of a residence on the property;

(B) May prohibit, notwithstanding subdivision (b)(1)(A), any political or campaign poster or sign covered by this section from exceeding:

(i) For commercial property, thirty-two square feet (32 sq. ft.) in size; and

(ii) For residential property, sixteen square feet (16 sq. ft.) in size; and

(C) Notwithstanding subdivision (b)(1)(A), may adopt reasonable restrictions limiting the number of political campaign signs or posters that may be placed on property; provided, that such restrictions authorize an owner or resident to place at least one (1) poster or sign on the property per candidate, issue, or subject; and

(2) A homeowners' association shall not, by covenant, condition, restriction, or rule, prohibit the display of political or campaign posters or signs placed on private property by the owner of the property or any lawful resident of a residence on the property. A homeowners' association may adopt reasonable covenants, conditions, restrictions, or rules with respect to the placement of political or campaign posters or signs placed on homeowner association common space and private property maintained by the owner or resident, including limiting the size of campaign posters or signs in those common and private property areas to four square feet (4 sq. ft.).

(c) A lessor of residential property may require a lessee to obtain the written permission of the lessor prior to placing any political or campaign posters or signs on such residential property. Any such requirement must be included in the lease or rental agreement.

(d) This section applies to any clause, covenant, condition, restriction, or rule contained in any agreement or contract between a homeowners' association and property owner or between a lessor and lessee executed or modified after July 1, 2017.

2-10-211. Electronic filing system.

(a) The registry of election finance, notwithstanding any other law to the contrary, shall do all of the following:

(1) Develop, with the advice, assistance and approval of the division of strategic technology solutions, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees that are required to file statements and reports with the registry of election finance;

(2) Develop, with the advice, assistance and approval of the division of strategic technology solutions, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper or change the data in any way;

(3) Provide training to candidates and campaign committees on the use of the electronic filing system;

(4) Develop, with the advice, assistance and approval of the division of strategic technology solutions, a system that will forward a copy of any candidate's report that is filed electronically with the registry of election finance to the appropriate local county election commission; and

(5) Provide public access to a list of campaign contributions made to candidates and a list of expenditures made by those candidates by posting the lists on the Internet. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Beginning with the 2006 regular August election, campaign contribution lists shall be made available on the Internet after a candidate has filed the information and the registry has reviewed the statements for accuracy and timeliness. If a candidate has not timely filed campaign contribution lists, then the registry

shall post on the Internet that the candidate's statement is delinquent.

(b) The registry of election finance, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The registry of election finance shall, with the advice, assistance and approval of the division of strategic technology solutions, implement the electronic filing system for use in the 2006 regular August election and all subsequent state elections. Candidates for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2006 and after notice has been given pursuant to subsection (b), and may continue to file electronically all reports for any subsequent state elections. Beginning in July 2006, candidates for state public offices and campaign committees, who have contributions or expenditures in excess of one thousand dollars ($1,000) per reporting period, shall file electronically all reports for any subsequent state elections. Failure to timely file reports electronically may be penalized as provided in § 2-10-110.

(d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the registry of election finance.

2-13-203. Methods of nomination for other offices.

(a)(1) Statewide political parties may nominate their candidates for any office other than those listed in § 2-13-202 by any method authorized under the rules of the party or by primary election under this title.

(2) Recognized minor parties may nominate their candidates for any office by any method authorized under the rules of the party or by primary election under this title.

(b) Persons nominated other than by primary method for offices to be filled by the voters of one (1) county or any part of a county shall be immediately certified by the chair of the nominating body to the county election commission by the qualifying deadlines.

(c) Persons nominated other than by primary method for offices to be filled by the voters of more than one (1) county, for state or federal office or for statewide office, shall be immediately certified to the coordinator of elections by the chair of the nominating body. The coordinator of elections shall thereafter certify such nominees to the county election commissions in each county in which the nominees are candidates by the qualifying deadline.

(d) Notwithstanding subsection (c), in the years in which an election will be held for president of the United States, the chair of the nominating body of a statewide political party or recognized minor party shall certify the party's nominees for president and vice president for the November general election to the coordinator of elections by the first business day in September.

(e)(1) If a statewide political party decides to nominate by primary election under this section, the county executive committee shall, at least one hundred eighty (180) days before the qualifying deadline, direct, in writing, the county election commission of each county whose voters are entitled to vote to fill the office to hold the election. If the one hundred eightieth day falls on a Saturday, Sunday or legal holiday, the deadline shall be the next regular business day. The county executive committee may revoke or rescind its decision to nominate by primary election by providing the county election commission with written notice not less than ninety (90) days before the

qualifying deadline.

(2) If a nonrecognized minor party seeking recognition as a recognized minor party decides to nominate by primary election under this section, the officers of the nonrecognized minor party shall file a notice with the coordinator of elections of its intent to nominate by primary election by twelve o'clock (12:00) noon, prevailing time, by the qualifying deadline established in subdivision (d)(1). The notice shall be in writing and shall be signed by two (2) officers with authority to act for the party. The notice shall be notarized and contain the following statement:

We _____, and _____, officers of the _____ Party certify under penalty of perjury that we are authorized to act for the _____ Party.

(3) Primaries, if any, for nominating candidates for any office which will appear on the regular August election ballot shall be held on the first Tuesday in May before the August election. In the years in which an election will be held for president of the United States, a political party primary for offices to be elected in the regular August election may be held on the same day as the presidential preference primary. In such event, the qualifying deadline for candidates and for delegate-candidates shall be twelve o'clock (12:00) noon, prevailing time, on the date established in § 2-5-101(a)(2).

(f) Notwithstanding any provision of this section or any other law to the contrary, by resolution adopted by a two-thirds (⅔) vote of the county legislative body of any county having a population in excess of eight hundred twenty-five thousand (825,000), according to the 1990 federal census or any subsequent federal census, the county legislative body may require that all elections to fill state trial court judgeships and county judicial offices in such county shall be conducted in a nonpartisan manner.

2-19-118. Unlawful acts related to voting machines, electronic poll books, voting devices, voting systems, vote tabulating devices, ballot tally software program source codes, official voter registration database, keys, or election websites.

(a) A person commits an offense who, before, during, or after an election:

(1) Intentionally tampers, interferes, or attempts to interfere with the correct operation of, or damages in order to prevent the use of, a voting machine, electronic poll book, voting device, voting system, vote tabulating device, or ballot tally software program source codes;

(2) Intentionally tampers with, interferes with, attempts to interfere with, obtains unauthorized access to, or attempts to obtain unauthorized access to the official voter registration database, including, but not limited to, attempts to obtain plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property or information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with the official voter registration database;

(3) Knowingly and without authorization makes or has in the person's possession a key to a voting machine, voting system, tabulator, or ballot box that will be used in an election in this state;

(4) Intentionally substitutes or attempts to substitute forged or counter-

feit election results: or

(5) Intentionally and without authorization, directly or indirectly, alters, damages, destroys. or attempts to alter, damage, or destroy or causes disruption to the proper operation of any election website maintained, hosted, or administered by a state or county governmental entity or a third party on behalf of or under contract with a state or county governmental entity.

(b) A violation of subsection (a) is a Class D felony.

2-19-132. [Repealed.]

2-19-133. False or misleading information regarding voting.

(a) A person commits an offense who, with intent to deceive or disseminate information that person knows to be incorrect, provides or publishes false or misleading information regarding the qualifications to vote, the requirements to register to vote, whether an individual voter is currently registered to vote or eligible to register to vote, voter registration deadlines, or polling dates, times, and locations.

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

3-1-107. Salaries.

(a)(1) Beginning with the election of the Ninety-Sixth General Assembly, each member shall receive an annual salary of sixteen thousand five hundred dollars ($16,500), payable in equal monthly installments, which shall be in addition to all other expenses and allowances provided by law.

(2) Beginning with the election of the Ninety-Seventh General Assembly, in addition to the base annual salary provided in subdivision (a)(1), during the interim between sessions, for each day while performing official duties as a legislator attending to state business at the seat of government, each member may receive supplemental compensation in an amount as provided in § 3-1-106(b)(1). Such days shall be certified by the member to the speaker of the respective house for prior approval.

(b) In lieu of the salary provided in subsection (a), the speaker of the senate and the speaker of the house of representatives shall receive an annual salary equal to three (3) times the amount of the salary provided in subsection (a), payable in equal monthly installments, which shall be in addition to all other expenses and allowances provided by law.

(c)(1) Except as provided in subdivision (c)(2), for the fiscal year beginning in 2005, and for each subsequent fiscal year, the base salary fixed in subdivision (a)(1) shall be adjusted to reflect the average percentage pay increase provided for state employees by the general appropriations act. However, any adjustments occurring during a term of the general assembly shall not take effect until the election of the next general assembly. On or before November 1 of each year, the comptroller of the treasury shall certify to the office of legislative administration such average increase in state employee's compensation during that fiscal year.

(2) Notwithstanding this section to the contrary, beginning with the election of the One Hundred Twelfth General Assembly, the base salary of each member shall not be adjusted pursuant to subdivision (c)(1) for fiscal year 2020-2021.

3-6-115. Electronic filing and registration system.

(a) Notwithstanding any other law to the contrary, the Tennessee ethics commission shall:

(1) Develop, with the advice, assistance and approval of the division of strategic technology solutions, an Internet-based electronic filing process for use by all persons that are required to electronically register or file statements and reports with the commission pursuant to this chapter, §§ 2-10-115 and 2-10-122 — 2-10-130, and title 8, chapter 50, part 5;

(2) Develop, with the advice, assistance and approval of the division of strategic technology solutions, a system that provides each person required to register or file statements and reports with the commission secure access to the electronic registration and filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with or changing the data and shall provide for secure authentication safeguards for documents such as electronic signatures and electronic notarization;

(3) Provide training to each person required to register or file statements and reports with the commission on the use of the electronic filing system;

(4) Make, with the advice, assistance and approval of the division of strategic technology solutions, electronically filed reports and statements available for viewing on the commission's web site in a format that is searchable and that may be downloaded and managed by a user with appropriate software; provided, that this subdivision (a)(4) does not apply to those documents required to be confidential pursuant to § 3-6-202. In addition to any other method of information management developed by the commission, conflict of interest disclosures shall be indexed and searchable by county; and

(5) Beginning on October 1, 2006, with the advice, assistance and approval of the division of strategic technology solutions, provide the public access to lists compiled from the registrations and other documents filed by employers of lobbyists, lobbyists, and persons required to file conflict of interest disclosures. In addition, the commission shall provide assistance to anyone seeking to access this information on the Internet.

(b) The commission, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The commission shall, with the advice, assistance and approval of the division of strategic technology solutions, implement the electronic filing system for use by October 1, 2006. Any person required to electronically file statements and reports with the commission shall file required statements and reports electronically on or after October 1, 2006. Any required statements and reports filed with the registry of election finance prior to October 1, 2006, shall continue to be filed with the registry until such date.

(d) All information entered by any person required to file statements and reports electronically with the commission shall remain confidential until the information is submitted to the commission.

(e) The commission shall strive to establish electronic filing for all documents required to be filed with the commission; provided, however, that no candidate or appointee to a local public office, as defined in § 2-10-102, shall be required to electronically file documents with the commission.

(1) Except as provided in this subsection (e), the commission, unless otherwise required by law to provide for electronic filing, shall have the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing.

(2) The commission shall establish rules specifying the manner in which a report, statement or other documents shall be filed. The rules shall be published and posted conspicuously on the commission's web site at least sixty (60) days prior to the due date of any document affected by the rules.

3-6-308. Administration and enforcement — Duties of ethics commission — Duties of attorney general — Confidentiality.

(a) This part shall be administered and enforced by the ethics commission. To that end, it is the duty of the ethics commission to:

(1) Develop, with the advice, assistance and approval of the division of strategic technology solutions, and prescribe electronic forms for registration, registration statements, amendments to registration statements, disclosure reports and other information required to be reported pursuant to this part;

(2) Preserve the registration, registration statements, amendments to registration statements, disclosure reports and other filed information for a period of at least five (5) years, or longer when there is a pending investigation by the commission or any law enforcement agency, or when there is an ongoing administrative or judicial proceeding related to any registration, statements, amendments, reports or information;

(3) Develop a filing, coding and cross-indexing system consonant with the purposes of this part;

(4) Issue and publish, upon proper request from any employer, lobbyist or public official subject to the jurisdiction of the commission, advisory opinions concerning the requirements of this part; however, under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, informal or otherwise, except as provided in § 3-6-117, concerning the authority of a person performing staff duties as the executive director or an attorney to give informal responses in the manner described in § 3-6-117;

(5) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;

(6) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the ethics commission. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;

(7) Audit each year the registration statements, amendments to registration statements and reports of no more than four percent (4%) of all lobbyists. The attorney general and reporter, or the attorney general's designee, shall attend the random selection proceeding in order to preserve the integrity of the proceeding. Nothing contained within this subdivision (a)(7) shall be construed to prevent the commission, upon finding probable cause to believe that an employer or a lobbyist has violated this part, from auditing the registration statements, amendments to registration statements and reports of the employer or lobbyist;

(8)(A) Compile and publish, on the commission's Internet site, the follow-

ing reports listing:

(i) All registered employers, alphabetically;

(ii) All registered lobbyists, alphabetically; and

(iii) Each subject matter category specified by the ethics commission for purposes of § 3-6-302(b)(2)(C), with each lobbyist listed under the subject matter category who lobbied that subject matter category during the registration year;

(B) The ethics commission may prepare and publish on its web site such other reports as are deemed to be appropriate and in the public interest; and

(9) Impose civil penalties and other administrative sanctions in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the ethics commission upon request of the executive director.

(c) Notwithstanding any law to the contrary, random audit information and investigatory audit information shall be confidential and shall be maintained as such by the members and employees of the ethics commission and by the officers and employees of the state, in the manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the department of revenue and the state under title 67, chapter 1, part 17.

3-7-101. Creation — Membership. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) There is created a special, continuing committee of the general assembly, to be known as the fiscal review committee.

(b)(1)(A) It shall be composed of the speaker of the senate, the speaker of the house of representatives, the chair of the senate standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), the chair of the house standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), all ex officio members, and fifteen (15) members to be elected as follows:

(B) Six (6) senators and nine (9) representatives to be elected by the respective houses of the general assembly, with each house to elect an appropriate number of members from each of the two (2) major political parties so that the political make-up of the committee, exclusive of the speakers, shall reflect as nearly as possible the same ratio of members of such parties as the parties are represented in the respective houses. Notwithstanding subdivision (b)(1)(A), however, no political party shall have less than two (2) elective members from each house of the general assembly.

(2) After committee membership is selected pursuant to subdivision (b)(1) and subsection (c), if the required political party ratio or minimum representation is undermined by changed circumstances other than a vacancy in the committee membership, then the required party ratio or minimum representation shall be promptly restored via appointment of an additional interim member or members by the appropriate speaker. The term of any member so appointed shall terminate at the next regular election of committee membership conducted pursuant to subdivision (b)(1) and sub-

section (c).

(c) Committee members shall serve for their full term of office as legislators and until their successors are selected and qualified, if reelected to either house of the general assembly. Members are eligible to succeed themselves as members of the committee. As terms expire, successors shall be selected during the fifteen-day organizational session of each general assembly.

(d) Vacancies among the membership shall be filled in the same manner as in the original selection of members, except that in the case of a vacancy in the elected membership when the general assembly is not in session, the speaker of the body from which the originally elected member came shall appoint a successor, who shall be from the same political party as the member's predecessor.

(e) The committee shall elect from its membership a chair, a vice chair, and such other officers as it considers necessary. The chair and vice chair shall be of opposite houses of the general assembly so that one (1) is a member of the senate and one (1) is a member of the house of representatives. The chair and vice chair positions shall rotate between the senate and house of representatives every two (2) years.

(f) All members of the committee, exclusive of the speakers, shall be voting members.

3-7-101. Creation — Membership. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) There is created a special, continuing committee of the general assembly, to be known as the fiscal review committee.

(b)(1)(A) It shall be composed of the speaker of the senate, the speaker of the house of representatives, the chair of the senate standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), the chair of the house standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), all ex officio members, and fourteen (14) members to be elected as follows:

(B) Seven (7) senators and seven (7) representatives to be elected by the respective houses of the general assembly, with each house to elect an appropriate number of members from each of the two (2) major political parties so that the political make-up of the committee, exclusive of the speakers, shall reflect as nearly as possible the same ratio of members of such parties as the parties are represented in the respective houses. Notwithstanding subdivision (b)(1)(A), however, no political party shall have less than two (2) elective members from each house of the general assembly.

(2) After committee membership is selected pursuant to subdivision (b)(1) and subsection (c), if the required political party ratio or minimum representation is undermined by changed circumstances other than a vacancy in the committee membership, then the required party ratio or minimum representation shall be promptly restored via appointment of an additional interim member or members by the appropriate speaker. The term of any member so appointed shall terminate at the next regular election of committee membership conducted pursuant to subdivision (b)(1) and subsection (c).

(c) Committee members shall serve for their full term of office as legislators

and until their successors are selected and qualified, if reelected to either house of the general assembly. Members are eligible to succeed themselves as members of the committee. As terms expire, successors shall be selected during the fifteen-day organizational session of each general assembly.

(d) Vacancies among the membership shall be filled in the same manner as in the original selection of members, except that in the case of a vacancy in the elected membership when the general assembly is not in session, the speaker of the body from which the originally elected member came shall appoint a successor, who shall be from the same political party as the member's predecessor.

(e) The committee shall elect from its membership a chair, a vice chair, and such other officers as it considers necessary. The chair and vice chair shall be of opposite houses of the general assembly so that one (1) is a member of the senate and one (1) is a member of the house of representatives. The chair and vice chair positions shall rotate between the senate and house of representatives every two (2) years.

(f) All members of the committee, exclusive of the speakers, shall be voting members.

3-17-102. Chapter definitions.

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

(1) [Deleted by 2015 amendment.]

(2) "Annual event" means an event:

(A) Authorized by two-thirds (⅔) vote of all members elected to each house of the general assembly;

(B) Operated for the benefit of a nonprofit organization located in Tennessee;

(C) Conducted with a single type of lottery game;

(D) Conducted on an event date; and

(E) Conducted at a location within a county where the organization maintains a physical presence or in a county that is contiguous to a county where the organization maintains a physical presence;

(3) "Annual event application" means the application made to the secretary of state to operate an annual event;

(4) "Event date" means the day of an annual event. For the purposes of this subdivision (4), "day" means a twenty-four-hour period beginning at twelve o'clock (12:00) midnight and ending at eleven fifty-nine post meridiem (11:59 p.m.);

(5) "Financial accounting" means a report of funds collected and expended for the annual event that is filed after completion of an annual event;

(6) "Nonprofit organization" means:

(A) A 501(c)(3) organization that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a), as an organization described in § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), and, for the limited purposes of this chapter:

(i) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization

described in § 501(c)(3) of the Internal Revenue Code;

(ii) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in any subdivision of § 501(c) of the Internal Revenue Code, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(iii) Has been conducting a fishing event for the benefit of youth for at least ten (10) successive years in the county in which it applies to hold an annual event, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(iv) Has been operating for at least four (4) years in this state as part of an organization exempt from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code, but, prior to submission of an annual event application, has received separate exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(v) Has been in continuous and active existence in Tennessee for three (3) years immediately preceding the event date listed in an annual event application as an organization described in § 501(c)(3) of the Internal Revenue Code, and has merged with an organization that had been in continuous and active existence in Tennessee for at least five (5) years as an organization described in § 501(c)(3) of the Internal Revenue Code;

(vi) Is a school foundation organized pursuant to § 49-2-612 and, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code. No more than one (1) school foundation per public school per annual event period shall qualify as a 501(c)(3) organization pursuant to this subdivision (6)(A)(vi);

(vii) Has been in continuous and active existence in this state for three (3) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code and is a dues paying member of a separate organization described in § 501(c)(3) of the Internal Revenue Code which has been in continuous and active existence in this state for ten (10) years preceding the event date listed in an annual event application; or

(viii) Has been in continuous and active existence in this state as a volunteer fire department for at least ten (10) years immediately preceding the event date listed in an annual event application, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code for two (2) continuous years preceding the event date; and

(B) A 501(c)(19) organization that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26

U.S.C. § 501(a), as an organization described in § 501(c)(19) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(19) and, for the limited purposes of this chapter:

(i) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(19) of the Internal Revenue Code; or

(ii) Has been operating for at least four (4) years in this state as part of an organization exempt from federal taxation as an organization described in § 501(c)(19) of the Internal Revenue Code, but, prior to submission of an annual event application, has received separate exemption from federal taxation as an organization described in § 501(c)(19) of the Internal Revenue Code;

(7) "Person" means any individual, organization, trust, foundation, group, association, partnership, limited liability company, corporation, society, or any combination of them, or any other entity;

(8) "Secretary" means the secretary of state or the secretary of state's authorized representative; and

(9)(A) "Type of lottery game" means a game of chance played by any person eighteen (18) years of age or older, including raffles, reverse raffles, cakewalks and cakewheels, but expressly prohibiting pulltabs, punchboards, bingo, instant bingo, video lottery, instant and on-line lottery games of a type operated by the Tennessee education lottery corporation, keno and games of chance associated with casinos including, but not limited to, slot machines, roulette wheels, and the like;

(i) For the purpose of this subdivision (9), "bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(ii) For the purpose of this subdivision (9), "cakewalks" and "cakewheels" mean a game of chance in which a participant is required to make a wager to select, or to receive, a prize with the winner determined by random selection through walking to music, colored space, a spinning wheel, drawing or any combination thereof;

(iii) For the purpose of this subdivision (9), "raffles" and "reverse raffles" mean a game of chance in which a participant is required to purchase a ticket, share, chance or similar record for a chance to win a prize, with the winner to be determined by random drawing;

(iv) For the purpose of this subdivision (9), "video lottery" means a lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for a cash or non-cash prize, or nothing, determined wholly or predominantly by chance;

(B) Any type of lottery game not expressly authorized in this subdivision (9) is prohibited.

3-17-103. Annual events — Application — Organizational requirements and restrictions — Proceeds — Omnibus list of qualifying applicants — Submission of financial accounting.

(a)(1)(A)(i) A nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state shall submit an annual event application to the secretary by January 31 each year for the annual event period beginning July 1 of that calendar year and ending June 30 of the subsequent calendar year.

(ii) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a 501 (c)(3) organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within three (3) calendar days after April 14, 2015, for the annual event period beginning July 1, 2015, and ending June 30, 2016.

(iii) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within five (5) calendar days after March 20, 2018, for the annual event period beginning July 1, 2017, and ending June 30, 2018.

(iv) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within five (5) calendar days after March 9, 2020, for the annual event period beginning July 1, 2020, and ending June 30, 2021.

(v) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within two (2) calendar days after June 15, 2020, for the annual event period beginning July 1, 2020, and ending June 30, 2021.

(B) For purposes of the submission deadline, the postmark date on the annual event application is deemed to be the date of submission; provided, that, for the purposes of the submission deadline pursuant to subdivisions (a)(1)(A)(ii)-(v), an annual event application is not deemed to be submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(2) The organization shall be a nonprofit organization as defined in § 3-17-102.

(3)(A) A nonprofit organization, including chapters or affiliates operating under the same tax exemption, shall not operate more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(B)(i) An annual event shall be operated at a single location within a county in Tennessee where the nonprofit organization has a physical presence or in a county that is contiguous to a county where the organization maintains a physical presence, as disclosed pursuant to

§ 3-17-104(e)(1), or a nonprofit organization may operate an annual event on the same day in one (1) county where it has a physical presence in each grand division as described in §§ 4-1-201 — 4-1-204. Such location, or locations, shall be listed as the location of the annual event in the annual event application pursuant to § 3-17-104(e)(4).

(ii) Nothing in this subdivision (a)(3)(B) shall be construed to limit the ability of an organization to sell tickets, shares, chances or similar records for an authorized annual event in any political subdivision of this state.

(iii) No more than two (2) annual events per calendar month shall be held at the same location in each county during any annual event period. For the purpose of this subdivision (a)(3)(B), "location" means a single physical site in a county identified by an address or unique descriptive feature.

(C) Notwithstanding any provision of this chapter to the contrary, a nonprofit organization authorized to conduct an annual event may change the location of the annual event if the location listed on the annual event application is subsequently unavailable during the time in which the annual event was to be conducted and if the following conditions are satisfied:

(i) Written notice is given to the secretary of state, Tennessee bureau of investigation and district attorney general for the judicial district in which the annual event is to be conducted, stating that the listed location is unavailable, the reason for unavailability, and the new location;

(ii) Sufficient public notice is given by means of posting notice on the organization's web site, if any, and by publication in a newspaper of general circulation in the county in which the annual event will be conducted; and

(iii) The new location complies with subdivision (a)(3)(B)(iii).

(4)(A) A nonprofit organization may operate an annual event in conjunction with one (1) or more nonprofit organizations under the following circumstances:

(i) Each nonprofit organization files an independent annual event application including, but not limited to, the appropriate application fee, in accordance with this chapter;

(ii) Each nonprofit organization submits, with the annual event application, a joint statement of authorization indicating the intention to conduct a joint annual event and listing all organizations participating in such joint event; and

(iii) Each nonprofit organization applicant is in compliance with this chapter and is eligible for inclusion on the omnibus list.

(B) If one (1) or more nonprofit organizations are not eligible for inclusion on the omnibus list, or fail to timely file an annual event application, all applicants for a joint annual event shall be excluded from the omnibus list. No provision of this subdivision (a)(4) shall be construed as authorizing a nonprofit organization participating in a joint event to operate, participate or conduct, jointly or otherwise, more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(5)(A)(i) Except as otherwise provided in this subdivision (a)(5), a nonprofit organization authorized to conduct an annual event pursuant to

this chapter shall not employ, contract with, or otherwise utilize the services of any person including, but not limited to, any management company, consultant or other entity, to manage, conduct or operate any aspect of an annual event. An authorized annual event shall be managed, conducted and operated only by bona fide directors, officers or employees of a nonprofit organization who:

(a) Manage, conduct or operate only one (1) such annual event in any twelve-month period beginning on July 1 and ending on June 30 each year for any nonprofit organization; and

(b) Receive no compensation for duties associated with the annual event from the proceeds of the annual event except compensation otherwise due to such person in the normal course of business. In no event shall such person's normal compensation, or any other form of compensation or benefit including, but not limited to, any bonus payment or any other form of supplemental payment, be based upon or determined by reference to a percentage of the proceeds derived from the operation of the annual event, the number of people participating in the annual event or any other factor related to the annual event.

(ii) Unpaid volunteer personnel, including members of a nonprofit organization, may be utilized by a nonprofit organization to manage, conduct or operate an annual event.

(B)(i) Nothing in this subdivision (a)(5) or § 39-17-654(b) shall be construed as prohibiting a nonprofit organization from purchasing, leasing or accepting donations of prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event; provided, that the compensation paid for such purchases or leases shall not be at a price greater than fair market value and shall not be based on a percentage of the proceeds of an annual event or by any other contingency agreement based on the proceeds of an annual event.

(ii) No nonprofit organization shall purchase or lease prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event from any director, officer or employee of the nonprofit organization.

(6)(A) Except as provided in subdivision (a)(6)(B), a nonprofit organization authorized to conduct an annual event pursuant to this chapter shall return all of the gross proceeds, less any amount expended pursuant to subdivision (a)(5)(B), to the organization for the purposes or programs described in § 3-17-104(e)(6), but in any event, a nonprofit organization shall return at least twenty-five percent (25%) of gross proceeds to the organization for the purposes or programs described in § 3-17-104(e)(6).

(B) A nonprofit organization that fails to return at least twenty-five percent (25%) of gross proceeds from the annual event to the purposes or programs described in § 3-17-104(e)(6) in any year shall file notice with the secretary on a form prescribed by the secretary. If, in the sound discretion of the secretary, the organization was not at fault in failing to return the required percentage, the organization shall be allowed to file an annual event application for the next annual event period; provided, that if an organization fails to return the required percentage in two (2)

consecutive annual event periods, the organization shall be disqualified from filing annual event applications for a period of five (5) years. If an organization is not permitted by the secretary to file an event application pursuant to this subdivision (a)(6)(B), the organization may request a review pursuant to the procedure set forth in § 3-17-105(g).

(C) As used in this subdivision (a)(6), gross proceeds shall not include revenue disclosed as the fair market value of any donated prizes, goods and services.

(7) A nonprofit organization seeking authorization to conduct an annual event pursuant to this chapter shall be in compliance with the registration requirements for charitable organizations set forth in title 48, chapter 101, part 5, or be exempt from annual registration pursuant to § 48-101-502.

(b)(1) The secretary shall review all annual event applications timely submitted and shall transmit an omnibus list of qualifying applicants to the clerk of the senate and the clerk of the house of representatives in an electronic format, as is required by the respective clerks, on or before March 8 of each year. The omnibus list shall include, at a minimum, the name of the nonprofit organization, the name of the event, the type of lottery game, the event date for the event and the location or locations of the event. The omnibus list shall list nonprofit organizations alphabetically by county in which the annual event is proposed to be operated.

(2) In addition to the omnibus lists transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(ii) for the annual event period beginning July 1, 2015, and ending June 30, 2016. The list shall be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within five (5) calendar days after April 14, 2015.

(3) In addition to the omnibus lists transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(iii) for the annual event period beginning July 1, 2017, and ending June 30, 2018. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within seven (7) calendar days after March 20, 2018.

(4) In addition to the omnibus listing transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(iv) for the annual event period beginning July 1, 2020, and ending June 30, 2021. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within seven (7) calendar days after March 9, 2020.

(5) In addition to the omnibus listing transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(v) for the annual event period beginning July 1, 2020, and ending June 30, 2021. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within five (5) calendar days after

June 15, 2020.

(c) Upon authorization by the general assembly, the clerk of the house last approving such authorization shall transmit a copy of such authorization to the secretary and to each district attorney general. The secretary shall transmit such authorization to each authorized nonprofit organization at the mailing address listed in such organization's annual event application; provided, that in the case of an organization with multiple chapters, branches or affiliates in Tennessee, such authorization shall be transmitted only to the primary mailing address of the applicant. Such authorization shall be posted on the web site of the secretary with such additional information as the secretary deems appropriate. At a minimum, the secretary shall post the name of the nonprofit organization, the name of the event, the type of lottery game, the event date for the event and the location, or locations, of the event.

(d)(1)(A)(i) An authorized annual event shall be held within twenty-eight (28) calendar days of the event date listed in the annual event application; provided, that nothing in this subdivision (d)(1) shall be construed as allowing two (2) annual events in any one-year period or as allowing a nonprofit organization to operate an annual event at authorized multiple locations on separate days.

(ii) Notwithstanding any law to the contrary, an organization that is authorized to hold an annual event from the period July 1, 2020, through December 31, 2020, may hold the authorized annual event no later than sixty (60) calendar days after the event date listed in the annual event application; provided, that such authorization under this subdivision (d)(1)(A)(ii) only applies on a one-time basis.

(B) A nonprofit organization shall give notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted one hundred thirty (130) days prior to the event date listed in the annual event application; provided, that if the event date is within one hundred thirty (130) days from notification of authorization to conduct an annual event, the nonprofit organization shall immediately, upon receipt of such notification and prior to the commencement of selling any tickets, shares, chances or similar records, give notice to the chief law enforcement officer of each county or municipality in which the annual event shall be conducted. In accordance with subdivision (d)(1)(A), if the actual event date is different than the event date listed in the annual event application, a nonprofit organization shall give an additional notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted prior to conducting the annual event. For the purposes of this subdivision (d)(1)(B), "notice" means a letter sent by certified mail, or by actual physical delivery of a letter to the chief law enforcement officer or such officer's designee, containing, at a minimum, the following information:

(i) The name of the nonprofit organization;

(ii) The name of the event;

(iii) The location of the event, including the physical address where the annual event will be conducted;

(iv) The type of lottery game to be conducted;

(v) The event date for the event listed in the annual event application;

(vi) If applicable, the actual event date for the annual event if

different than the event date listed in the annual event application;

(vii) If applicable, additional locations of the event, including the physical address where the annual event will be conducted, if such event will be operated at authorized multiple locations;

(viii) The name, address and telephone number of the nonprofit organization's chair, president or chief administrative officer; and

(ix) If applicable, the name, address and telephone number of the person responsible for the operation of the annual event for the nonprofit organization, if different than the organization's chair, president or chief administrative officer.

(2) Except as provided in subdivision (d)(3), upon receipt of authorization from the secretary pursuant to subsection (c), a nonprofit organization may conduct all necessary activities for such event including, but not limited to, planning, advertising, promoting, printing of materials and tickets, shares, chances or similar records and the transportation of such records and other devices.

(3) A nonprofit organization, or any person authorized pursuant to subdivision (a)(5)(A) on behalf of the nonprofit organization, may sell tickets, shares, chances or similar records on the actual date of the annual event and for one hundred twenty (120) days immediately preceding the event date listed in the application and for any period after the event date listed in the annual event application but prior to the actual date of the annual event if such actual date is after the event date in accordance with subdivision (d)(1). No person shall sell tickets, shares, chances or similar records outside of the period authorized by this subdivision (d)(3). Notwithstanding any provision of this chapter to the contrary, the secretary shall establish rules and regulations concerning modification of the actual dollar amounts at which a ticket, share, chance or other similar record shall be sold by a nonprofit organization authorized to conduct an annual event; provided, that only one (1) such modification shall be made prior to the sale of any ticket, share, chance or other similar record and only in amounts within fifty dollars ($50.00) of the actual dollar amounts disclosed pursuant to § 3-17-104(e)(5). Tickets, shares, chances or other similar records may be sold at a single price or at different value levels or tiers. If tickets, shares, chances or other similar records are sold at different value levels or tiers, then the organization shall keep a written or electronic record of each sale, which shall include the name, the amount paid, the mailing address, and the contact information of the purchaser for the purpose of issuing refunds if a cancellation of the annual event occurs.

(e)(1) Within ninety (90) days following the event date listed in the annual event application, a financial accounting as required pursuant to § 3-17-106 shall be submitted by the organization to the secretary.

(2) For purposes of this chapter, the postmark date on the financial accounting shall be considered the date of submission.

(3) The secretary shall post such accounting, or a synopsis of such accounting, on the web page of the secretary.

(f) [Deleted by 2014 amendment, effective July 1, 2014.]

(g)(1) Notwithstanding any provision of this chapter to the contrary, for the annual event period beginning July 1, 2015, and ending June 30, 2016, a nonprofit organization described in § 501 (c)(19) of the Internal Revenue Code (26 U.S. C. § 501 (c)(19)) seeking to operate an annual event for the

benefit of that organization located in this state may submit an annual event application to the secretary within three (3) calendar days after April 14, 2015. For purposes of this submission deadline, an annual event application shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(2) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house of representatives by March 1, 2015, the secretary shall transfer an additional omnibus list listing any organizations approved pursuant to subdivision (g)(1) for the annual event period beginning July 1, 2015, and ending June 30, 2016. This list shall be transferred in a manner consistent with subsection (b) by twelve o'clock noon central daylight time (CDT) within five (5) calendar days after April 14, 2015.

3-17-104. Annual event application — Requirements.

(a) Except as otherwise provided in § 3-17-103(a)(1), all annual event applications shall be submitted to the secretary from July 1 to January 31 for the annual event period beginning July 1 following the close of the application period and ending June 30 of the subsequent calendar year.

(b) The secretary of state may prescribe and furnish forms and filing methods for all filings required by this part.

(c)(1) An initial application fee of fifty dollars ($50.00) must be paid at the time of submission of an annual event application. An annual event application must not be accepted by the secretary unless accompanied by the initial application fee.

(2) The secretary shall collect a reasonable fee for annual event applications. The secretary may establish a fee schedule for annual event applications based on the gross revenue of the annual event. No fee shall exceed seven hundred dollars ($700). Funds collected under this chapter shall be used by the secretary and the Tennessee bureau of investigation to defray the cost of administering this chapter, including, but not limited to, the cost of investigations pursuant to § 3-17-113.

(3) Annual event application fees are nonrefundable.

(d) All annual event applications shall be signed by the nonprofit organization's chair, president or chief administrative officer and the preparer of the application. Such persons shall certify under oath and subject to criminal penalties, including perjury, that the information contained in the annual event application is true and accurate.

(e) A nonprofit organization filing an annual event application shall submit, on a form prescribed by the secretary, the following information:

(1) The name, mailing address and physical address of the nonprofit organization. If the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the organization shall submit the physical addresses and mailing addresses of such multiple locations; provided that, for the purposes of this chapter, a post office box, or similar address at a mail or package delivery service, shall not be considered a physical address. If the principal office of the nonprofit organization is outside Tennessee, the organization shall submit the physical address and mailing address of such principal location;

(2) The name of the event;

(3) The date of the event;

(4) The location of the event;

(5) A description of the type of lottery game to be conducted. Such description shall include the estimated number of tickets, shares, chances or other similar records to be offered and the actual dollar amount at which a ticket, share, chance or other similar record shall be sold; provided that, if tickets, shares, chances or other similar records are to be sold at different value levels or tiers, then the actual dollar amounts and structure of such value levels or tiers;

(6) A description of the charitable use of the proceeds from the event;

(7) The name and telephone number of a contact person for the event;

(8) A copy of the organization's determination letter from the internal revenue service showing that the organization is exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) or § 501(c)(19) of the Internal Revenue Code;

(9)(A) A copy of the nonprofit organization's last annual report, Form 990, filed with the internal revenue service and any attached schedules for the organization's tax year ending immediately preceding the annual event application;

(B) If the organization has not filed an annual report with the internal revenue service for the organization's tax year ending immediately preceding the annual event application, the organization shall submit an affidavit from the nonprofit organization's chair, president or administrative officer affirming that the organization has not filed an annual report and shall begin to file annual reports as required by this chapter; provided, that the organization may submit such affidavit only one (1) time;

(C) An organization shall not be required to comply with this subdivision (e)(9) if it is not required to file a Form 990 with the internal revenue service; provided, that the organization submits proof of such determination by the internal revenue service;

(10) The names and addresses of any officers, directors, trustees, and the principal salaried executive staff officer of the nonprofit organization;

(11) A sworn statement that the organization has been in continuous and active existence as a nonprofit organization located in Tennessee as defined by § 3-17-102;

(12) A sworn statement that no officer, director, trustee, or the principal salaried executive staff officer of the nonprofit organization has been convicted of a violation of § 39-14-103, § 39-14-104, § 39-14-105, § 39-16-702, § 39-16-703, title 39, chapter 17, parts 5 or 6, or a similar offense in another jurisdiction; and

(13) A sworn statement that the board, or functional equivalent, of the nonprofit organization has approved the filing of an annual event application and intends to operate an annual event if authorized by the general assembly.

4-1-344. Official state nickname.

The official nickname of this state is "The Volunteer State."

4-3-506. Making completeness determinations and issuing or denying permits within time frame specified in department's rules and regulations.

(a) It is the intent of the general assembly that the department of environment and conservation seek to accomplish making a completeness determination and issuing or denying any permit within the time frames specified by the department's rules and regulations.

(b)(1) The commissioner shall prepare semiannual permitting efficiency reports that include statistics demonstrating whether the department has acted on permit applications within the time frames established by rule. The statistics may be summarized by organizational unit established under § 4-3-503. The reports are due February 1 and August 1 of each calendar year.

(2)(A) The report due February 1 must report data for the first six (6) months of the current fiscal year.

(B) The report due August 1 must report data for the entire previous fiscal year and must also specify any program or system changes to be made if the commissioner determines that program or system changes are necessary to achieve compliance with any time frame.

(3) If a report indicates that a division is not complying with the specified time frames, then the report must include a determination of the cause of the noncompliance.

(4) The reports must be posted on the department's website and electronically submitted to the governor and members of the general assembly.

4-3-612. Contribution to funeral expenses of correctional employee killed in line of duty.

(a) This section shall be known and may be cited as the Debra Johnson Act.

(b) The department of correction may, if the commissioner of correction deems it appropriate, contribute up to two thousand dollars ($2,000) in state funds toward the funeral and burial expenses, as defined in § 1-3-105, of any correctional employee killed in the line of duty.

4-3-731. Execution of a separate agreement when grant or loan contract reserves right of recovery if person or entity fails to fulfill commitments — Execution of separate agreement in conjunction with capital grant contract — Reports.

(a) Notwithstanding any law to the contrary, the department of economic and community development shall execute a separate agreement in conjunction with any grant or loan contract awarded pursuant to § 4-3-717(d)(1) that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the person or entity benefitting from such money, grants, funds, or other incentives fails to fulfill the commitments made by such person or entity to the department.

(b) For any grant or loan contract awarded pursuant to § 4-3-717(d)(1) on or after July 1, 2014, the department shall publish all baseline reports or annual reports filed with the department pursuant to this section on its web site within ninety (90) days of receipt. For any grant or loan contract awarded

pursuant to § 4-3-717(d)(1) between May 27, 2005, and January 1, 2011, the recipient shall be required to file a one-time report by February 1, 2015. The department shall provide a form for the reports that shall request, at a minimum:

(1) The name of the development authority which administers the grant;

(2) The name of the eligible business;

(3) For baseline reports, the number of existing employees of the eligible business;

(4) For annual reports, the number of net new jobs for the reporting period, as well as the number of cumulative net new jobs of the eligible business, and the total amount of the grant; and

(5) Any other information that may be required by the department.

(c) As used in this section:

(1) "Annual report" means a report which is delivered to the department by an eligible business after execution of a grant or loan contract awarded pursuant to § 4-3-717(d)(1) on an annual basis which details the number of net new jobs for the reporting period as well as the number of cumulative net new jobs; and

(2) "Baseline report" means a report which is delivered to the department by an eligible business upon execution of a grant or loan contract awarded pursuant to § 4-3-717(d)(1) which details the number of existing employees of an eligible business.

(d) Notwithstanding any law to the contrary, the department shall execute a separate agreement in conjunction with any capital grant contract awarded pursuant to chapter 15 of this title, for economic development purposes. The separate agreement must reserve the right of the department to recover the amount of grants, funds, or other incentives disbursed by the department of finance and administration pursuant to the grant contract, in whole or in part, if the person or entity benefitting from the grants, funds, or other incentives fails to fulfill the commitments made by the person or entity to the department of economic and community development.

(e)(1) At least once each year, the department shall report to the fiscal review committee on any new clawback rights being executed by the department during the current year, as well as any clawback rights from previous years that are still being collected by the department during the current year.

(2) As used in this subsection (e), "clawback" means a provision in an agreement or a separate agreement that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the person or entity benefitting from such money, grants, funds, or other incentives fails to fulfill the commitments made by such person or entity to the department.

4-3-1003. Establishment and transfer of divisions.

(a) To discharge the authority, powers and duties hereby imposed upon the department of finance and administration and the commissioner of the department, there are created within the department the following divisions:

(1) The division of accounts;

(2) The division of administration;

(3) The division of benefits administration;

(4) The division of budget;

(5) The office of the inspector general; and

(6) The division of strategic technology solutions.

(b) The commissioner is authorized to assign to these divisions the duties imposed upon the department and the commissioner thereof. The commissioner is authorized to combine, consolidate or abolish any of these divisions, or to create such new divisions as are necessary to carry out the duties imposed upon the commissioner and the department.

4-3-1004. [Repealed.]

4-3-1006. Budget powers.

The department of finance and administration has the power and is required to:

(1) Prepare and submit to the governor, annually, a state budget document in accordance with title 9, chapter 4, part 51;

(2) Prescribe forms for the preparation of the budget estimates by all the spending agencies of state government, and furnish every state officer, department and agency with a sufficient number of the budget estimate forms not later than October 15 of each year;

(3) Prescribe the classifications of expenditures and revenues for the purposes of budget making and accounting;

(4) Examine and recommend for approval the work program and quarterly allotments of each spending agency of state government before the appropriations made for such agency shall become available for expenditure;

(5) Examine and recommend for approval any changes made in the work program and quarterly allotments of any spending agency during the fiscal year;

(6) Investigate duplication of work among the departments and other agencies of state government, study the organization and administration of such departments and agencies, and formulate plans for better management and more efficient and economical operation;

(7) Prepare and report to the governor when requested, any financial data or statistics that the governor may require, such as monthly or quarterly estimates of the state's income, and cost figures on the current operations of state institutions and other agencies; and

(8) Examine all requisitions for purchases as the department may deem necessary, with power and authority to refuse to approve or honor any and all requisitions for purchases, except requisitions for purchases of the general assembly, state court system, attorney general and reporter, secretary of state, comptroller of the treasury, and state treasurer.

(9) [Deleted by 2020 amendment.]

4-3-1007. Accounting powers.

The department of finance and administration has the power and is required to:

(1) Maintain a system of general accounts embracing all the financial transactions of state government;

(2) Examine and approve all contracts, requisitions, orders, payrolls and other documents, the purpose of which is to incur financial obligations

against state government, and ascertain that moneys have been duly appropriated and allotted to meet such obligations and will be available when such obligations will become due and payable, as the commissioner deems necessary with the objective of improving accountability and managing risk as provided for in title 9, chapter 18;

(3) Audit and approve all bills, invoices, accounts, payrolls and other evidences of claims, demands or charges against state government, and determine the regularity, legality and correctness of such claims, demands or charges, as the commissioner deems necessary with the objective of improving accountability and managing risk as provided for in title 9, chapter 18;

(4) Inquire as needed concerning articles and materials furnished or work and labor performed, for the purpose of ascertaining that the prices, quality and amount of such articles or materials are fair, just and reasonable, and that all the requirements expressed and implied pertaining thereto have been complied with, and reject or disallow any excess;

(5) Make available monthly reports on all receipts, expenditures, appropriations, allotments, and encumbrances of the state government to the governor, the department of audit, and the head of the department, office, or agency directly concerned;

(6) Establish statewide accounting policies and practices that support the state's compliance with generally accepted accounting principles, state and federal laws, rules, and regulations. All such statewide policies shall become effective upon approval by the commissioner of finance and administration and the comptroller of the treasury;

(7) Prescribe such subsidiary accounts, including cost accounts, for the various departments, institutions, offices and agencies as may be desirable for purposes of administration, supervision and financial control;

(8) Examine at any time the accounts of every department, institution, office or agency, receiving appropriations from the state;

(9) Report to the attorney general and reporter for such action, civil or criminal, as the attorney general and reporter may deem necessary, and to the comptroller of the treasury, all facts showing illegality in the expenditure of public moneys, or in the collection of public revenues, or the misappropriation of public properties;

(10) Exercise the rights, powers and duties, except the power to collect taxes, conferred by law upon the comptroller of the treasury under title 8, chapter 4, and the rights, powers and duties conferred by § 9-2-107, insofar as these provisions relate to financial administration and general accounting control of the state government, involving the keeping of general accounts, the auditing before payment of all bills, or vouchers and the authorization of all claims against the state for which appropriations have been made;

(11) In consultation with the comptroller of the treasury, establish guidelines for the evaluation by agencies of their systems of internal accounting and administrative control as provided in title 9, chapter 18;

(12) [Deleted by 2020 amendment.]

(13) [Deleted by 2020 amendment.]

(14) Supervise and regulate the making of an inventory of all removable equipment and other movable property belonging to the state government or any of its departments, institutions or agencies, with the exception of those institutions expressly exempted from the operation of title 12, chapter 3, and keep the inventory current. This subdivision (14) shall not apply to the various collections of articles, specimens and relics placed under the charge

of the state museum executive director; and

(15) Approve the use of electronic and other technological means to transfer funds whenever economically feasible, to eliminate paper documentation wherever feasible, and to increase fiscal efficiency and effectiveness.

4-3-1008. Preparation of uniform rules and regulations for payment of travel expenses for officers and employees.

The department of finance and administration, with the approval of the governor, has the power and is required to:

(1) [Deleted by 2020 amendment.]

(2) [Deleted by 2020 amendment.]

(3) Prepare uniform rules and regulations for the payment of travel expenses for officers and employees of all state departments, institutions and agencies. It is the legislative intent that such rules and regulations provide that an employee under normal circumstances shall be responsible for bearing travel expenses for no more than thirty (30) days from the date of filing a claim, subject to an audit of the claim as required. The commissioner is further authorized to prepare special regulations when the commissioner determines that special circumstances necessitate them. Proposed uniform rules and regulations and proposed special regulations shall become effective upon approval by the attorney general and reporter. Prior to filing with the attorney general and reporter, the commissioner shall submit the proposed uniform rules and regulations and proposed special regulations to the comptroller of the treasury for comment.

(4) [Deleted by 2020 amendment.]

(5) [Deleted by 2020 amendment.]

(6) [Deleted by 2020 amendment.]

4-3-1010. Posting of report of travel and expense reimbursements on state web site.

(a) In addition to their other powers and duties, the department of finance and administration and its commissioner are vested with all the authority, powers and duties given them by title 12, chapter 2.

(b) [Deleted by 2016 amendment.]

(c) The commissioner of finance and administration shall cause to be posted on the official website of the state a report that contains all out-of-state travel expenditures and any expense reimbursements made for the expenditures to the governor, any member of the governor's cabinet, and cabinet level staff in accordance with the comprehensive travel regulations of the state or any policy of the governor; provided, however, that information shall not be posted if the out-of-state travel occurred for the purpose of recruiting industry or economic development in the state and the information, in the judgment of the commissioner, has the potential to harm contract negotiations or otherwise place the state at a competitive disadvantage in seeking industrial or economic development opportunities. For the purposes of this subsection (c), "out-of-state travel expenditures" includes: expenses for which corresponding reimbursements are made; and direct travel expenditures, including airfare, travel, hotel, and any other expenses paid for directly by using a state-approved vendor or with the use of a state-issued payment card. The report shall include the purpose of the expenditures and any reimbursements made, and shall be

reported by the person making the expenditures. The initial report shall be filed no later than fifteen (15) days following the last day of April 2006 and shall include all payments made from the first day of January 2006, until the last day of March 2006. Thereafter, the report shall be updated quarterly, no later than fifteen (15) days following the end of the quarter. The reports shall remain on the web site until one (1) month following the end of the governor's term of office. The last quarter reported in each such term shall include the period of time from the last quarter reported until the regular November election at which the next governor will be elected, and the first report in each governor's term shall include the period of time from the regular November election until the end of the first quarter.

4-3-1011. Background checks of certain employees and contractors.

As a condition of employment, the department of finance and administration is authorized to require its employees and contractors who have elevated and privileged access to data and personal information of state employees or citizens, or who support a governmental department, agency, office, or other entity whose employees, contractors, or vendors are subject to federal fingerprint background check requirements, to supply a fingerprint sample and submit to a criminal history background check to be performed by the Tennessee bureau of investigation and the federal bureau of investigation. The department shall develop a policy identifying which employees and contractors must supply a fingerprint sample and submit to a background check as a condition of employment.

4-3-1015. [Repealed.]

4-3-1016. Restrictions on carry forwards and transfers of funds to the state general fund. [See contingent amendment to subdivision (d)(14) and Compiler's Notes.]

(a) Notwithstanding any law to the contrary, subject to the specific provisions of an appropriation act, the commissioner of finance and administration is authorized to deny carry forwards for, and to transfer funds from, the funds, reserve accounts or programs identified in this section to the state general fund for the purpose of meeting the requirements of funding the operations of state government for the fiscal year ending June 30, 2006, and subsequent fiscal years. The authorization provided for in this subsection (a) shall not apply to allow the transfer of any fund balances that are mandated by federal law to be retained in such fund. This authority shall only apply to transfers and carry forwards necessary to fund the expenditures for the state for the fiscal year ending June 30, 2006, and subsequent fiscal years.

(b) No funds shall be transferred unless specifically appropriated in an appropriations act and such funds shall only be expended in accordance with such act.

(c) Notwithstanding any provision of this section to the contrary, no transfers are authorized from department of transportation funds, reserve accounts and programs in the highway fund or other funds created or referenced in titles 54, 55, 57, 65 and 67, except as authorized by § 47-18-1311.

(d) In the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2014, June 30, 2020, and June 30, 2021, transfers are

authorized from the following funds, reserve accounts and programs:

(1) Department of finance and administration, for the department of revenue, computerized titling and registration system accumulated fees, created or referenced in title 55, chapter 4, part 1;

(2) Department of finance and administration, domestic violence community education fund, created or referenced in title 36, chapter 3, part 6;

(3) Department of finance and administration, electronic fingerprint imaging systems fund, created or referenced in title 67, chapter 4, part 6;

(4) Department of finance and administration, family violence shelter reserve, created or referenced in title 36, chapter 6, part 4;

(5) Department of finance and administration, drug courts reserve, created or referenced in title 16, chapter 22;

(6) Department of finance and administration, state health planning reserve, created or referenced in title 68, chapter 11, part 16;

(7) Department of finance and administration, sexual assault program, created or referenced in title 40, chapter 24;

(8) Department of finance and administration, domestic assault defendant fines program, created or referenced in title 39, chapter 13, part 1;

(9) Department of correction, community correction program grants, created or referenced in title 40, chapter 36, part 3;

(10) Department of correction, supervision and rehabilitation accumulated fees, created or referenced in title 40, chapter 28, part 2;

(11) Department of correction, GPS offender tracking fees, created or referenced in title 40, chapter 28, part 2;

(12) Department of agriculture, agricultural resources conservation fund, created or referenced in title 67, chapter 4, part 4;

(13) Department of agriculture, agricultural regulatory fund, created or referenced in title 43, chapter 1, part 7;

(14) **[Current version. See second version for contingent amendment and Compiler's Notes.]** Department of environment and conservation, Tennessee board of water quality, oil and gas reclamation fund, created or referenced in title 60, chapter 1, part 4;

(14) **[Contingent amendment. See the Compiler's Notes.]** Department of environment and conservation, Tennessee board of energy and natural resources reclamation fund, created or referenced in title 60, chapter 1, part 4;

(15) Department of environment and conservation, solid waste management fund, created or referenced in title 68, chapter 211, part 8;

(16) Department of environment and conservation, used oil collection fund, created or referenced in title 68, chapter 211, part 10;

(17) Department of environment and conservation, hazardous waste remedial action fund, created or referenced in title 68, chapter 212, part 2;

(18) Department of environment and conservation, drycleaner environmental response fund, created or referenced in title 68, chapter 217;

(19) Department of environment and conservation, environmental protection fund, created or referenced in title 68, chapter 203;

(20) Department of environment and conservation, heritage conservation trust fund, created or referenced in title 11, chapter 7;

(21) Department of environment and conservation, lead based paint abatement fund, created or referenced in title 68, chapter 131, part 4;

(22) Department of environment and conservation, voluntary cleanup oversight and assistance fund, created or referenced in title 68, chapter 212,

part 2;

(23) Department of environment and conservation, abandoned land program, created or referenced in title 59, chapter 8, part 2;

(24) Department of environment and conservation, underground storage tank fund, created or referenced in title 68, chapter 215, part 1;

(25) Department of environment and conservation, surface mine reclamation fund, created or referenced in title 59, chapter 8, part 2;

(26) Department of environment and conservation, local parks land acquisition fund, created or referenced in title 67, chapter 4, part 4;

(27) Department of environment and conservation, state lands acquisition fund, created or referenced in title 67, chapter 4, part 4;

(28) Tennessee wildlife resources agency, wetland acquisitions fund, created or referenced in title 67, chapter 4, part 4;

(29) Department of correction, sex offender treatment fund, created or referenced in title 39, chapter 13, part 7;

(30) Department of correction, work release supervision and rehabilitation accumulated fees, created or referenced in title 40, chapter 28, part 2;

(31) Department of economic and community development, FastTrack fund, created or referenced in chapter 3, part 7 of this title;

(32) Department of economic and community development, film and television incentive grants fund, created or referenced in chapter 3, part 49 of this title;

(33) Department of economic and community development, job skills fund, created or referenced in title 50, chapter 7, part 4;

(34) Education trust fund, created or referenced in title 49, chapter 3, part 3;

(35) Department of education, driver education fund, created or referenced in title 67, chapter 4, part 6;

(36) Department of education, safe schools program, created or referenced in title 49, chapter 6, part 43;

(37) Department of education, special schools, created or referenced in title 49, chapter 50, part 10;

(38) Department of education, Alvin C. York Institute operational reserve, created or referenced in title 49, chapter 50, part 10;

(39) Department of education, Tennessee school for the blind operational reserve, created or referenced in title 49, chapter 50, part 10;

(40) Department of education, Tennessee school for the deaf operational reserve, created or referenced in title 49, chapter 50, part 10;

(41) Department of education, West Tennessee school for the deaf operational reserve, created or referenced in title 49, chapter 50, part 10;

(42) Department of education, boys and girls clubs reserve, created or referenced in title 36, chapter 6, part 4;

(43) Department of financial institutions, bank fees, created or referenced in title 45, chapter 1, part 1, and any other law and such funds in a deferred revenue account;

(44) Department of commerce and insurance fees, created or referenced in Acts 2001, ch. 333, and title 56, chapter 2, part 5; title 56, chapter 4, part 1; title 56, chapter 6, part 1; title 56, chapter 14; title 56, chapter 32; title 56, chapter 35, part 1; and title 55, chapter 18;

(45) Department of commerce and insurance, emergency communications funds, created or referenced in title 7, chapter 86, part 1;

(46) [Deleted by 2020 amendment.]

(47) [Deleted by 2020 amendment.]

(48) [Deleted by 2020 amendment.]

(49) [Deleted by 2020 amendment.]

(50) [Deleted by 2020 amendment.]

(51) Department of commerce and insurance, manufactured housing fund, created or referenced in title 68, chapter 126, part 4;

(52) Department of labor and workforce development, employment security special administrative fund, created or referenced in title 50, chapter 7, part 5;

(53) Department of labor and workforce development, Tennessee Occupational Safety and Health Act fund, created or referenced in title 50, chapter 6, part 4;

(54) Department of labor and workforce development, uninsured employers fund, created or referenced in title 50, chapter 6, part 8;

(55) Department of mental health and substance abuse services or the department of health, alcohol and drug addiction treatment fund, created or referenced in title 40, chapter 33, part 2;

(56) Department of health, health access incentive account, created or referenced in title 66, chapter 29, part 1;

(57) Department of health, child safety fund, created or referenced in title 55, chapter 9, part 6;

(58) Department of health, nursing home residents fund, created or referenced in title 68, chapter 11, part 8;

(59) Department of health, traumatic brain injury fund, created or referenced in title 68, chapter 55, part 4;

(60) [Deleted by 2020 amendment.]

(61) Department of revenue, C.I.D. anti-theft fund, created or referenced in title 55, chapter 3, part 2;

(62) Tennessee bureau of investigation, fingerprint criminal history database accumulated fees, created or referenced in title 39, chapter 17, part 13;

(63) Tennessee bureau of investigation, expunged criminal offender pretrial diversion database accumulated fees, created or referenced in title 38, chapter 6, part 1 and title 40, chapter 32;

(64) Tennessee bureau of investigation, intoxicant testing fund, created or referenced in title 55, chapter 10, part 4;

(65) Tennessee bureau of investigation, handgun permit reserve, created or referenced in title 39, chapter 17, part 13;

(66) Department of safety, driver education fund, created or referenced in title 67, chapter 4, part 6;

(67) Department of safety, motorcycle rider safety fund, created or referenced in title 55, chapter 51;

(68) Department of safety, handgun permit reserve, created or referenced in title 39, chapter 17, part 13;

(69) Department of children's services, child abuse prevention reserve, created or referenced in title 36, chapter 6, part 4;

(70) Court system Tennessee judicial information system fund, created or referenced in title 16, chapter 3, part 8;

(71) Court system divorcing parents mediation fund, created or referenced in title 36, chapter 6, part 4;

(72) Court system court automation hardware replacement revolving loan

fund, created or referenced in title 16, chapter 3, part 10;

(73) Court system municipal court clerks training and education program, created or referenced in title 16, chapter 18, part 3;

(74) Secretary of state voting machines loan fund, created or referenced in title 2, chapter 9;

(75) Secretary of state, voting machine reserve fund, created or referenced in title 2, chapter 9;

(76) Secretary of state, Blue Book reserve, created or referenced in title 8, chapter 3, part 1;

(77) Ethics commission reserve, created or referenced in title 3, chapter 6, part 1;

(78) State treasurer, small and minority-owned business assistance program, created or referenced in title 65, chapter 5, part 1;

(79) Health services and development agency fund, created or referenced in title 68, chapter 11, part 16;

(80) Tennessee public utility commission, deferred revenue account, created or referenced in title 65, chapter 1, part 1 and any other reserve fund maintained by the Tennessee public utility commission;

(81) Tennessee public utility commission, Tennessee relay services/telecommunications devices access program, created or referenced in title 65, chapter 21, part 1; and

(82) Tennessee advisory commission on intergovernmental relations, accumulated balances or carry-over funds, created or referenced in chapter 10 of this title.

(e) In the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2020, and June 30, 2021, in addition to the transfers authorized in subsection (d), transfers are authorized from the following additional funds, reserve accounts and programs:

(1) Department of correction, confiscated cash fund, created or referenced in chapter 6, part 1 of this title;

(2) Department of economic and community development, biofuels manufacturers incentive fund, created or referenced in title 67, chapter 3, part 4;

(3) Department of health, diabetes prevention and health improvement account, created or referenced in former chapter 40, part 4 of this title [repealed]; and

(4) Department of environment and conservation, natural resources trust fund, created or referenced in title 11, chapter 14, part 3.

(f) In the fiscal years ending June 30, 2009, June 30, 2011 and June 30, 2014, transfers shall not be made from the following funds, reserve accounts or programs:

(1) Department of transportation funds, reserve accounts and programs in the highway fund or other funds created or referenced in titles 54, 55, 57, 65 and 67, except as otherwise provided by law;

(2) Department of commerce and insurance, state board of accountancy fund, created or referenced in title 62, chapter 1, part 1;

(3) Department of commerce and insurance, division of regulatory boards fund, created or referenced in title 56, chapter 1, part 3; and

(4) Department of health, health-related boards fund, created or referenced in title 63, chapter 1, part 1.

(g) Notwithstanding Acts 2001, ch. 333, § 9 and any other law to the contrary, transfers are authorized from the department of commerce and

insurance fees increased by Acts 2001, ch. 333.

(h) Other law to the contrary notwithstanding, in the year ending June 30, 2009, reserves of the Tennessee public utility commission, including the deferred revenue account created or referenced in title 65, chapter 1, part 1, the assistive telecommunication device distribution program reserve created or referenced in title 65, chapter 21, part 1, and any other reserve fund maintained by the commission are available to the commission for its operational costs; and such reserves may be transferred between operational accounts of the commission.

(i) In the fiscal years ending June 30, 2018, June 30, 2020, and June 30, 2021, transfers are authorized from the department of safety, handgun permit reserve, created or referenced in title 39, chapter 17, part 13.

(j) In the fiscal years ending June 30, 2020, and June 30, 2021, in addition to the transfers authorized in subsections (d) and (k), transfers are authorized from the following additional funds, reserve accounts, and programs:

(1) Attorney general and reporter, litigation settlement funds reserve, except as otherwise provided by law;

(2) District attorneys general conference, district attorneys expunction fund, created or referenced in title 40, chapter 32, part 1;

(3) District public defenders conference, public defenders expunction fund, created or referenced in title 40, chapter 32, part 1;

(4) Tennessee public utility commission, underground damage prevention fund, created or referenced in title 65, chapter 31, part 1;

(5) Tennessee arts commission, reserve for new specialty earmarked license plates, created or referenced in title 55, chapter 4, part 3;

(6) Department of finance and administration, office of inspector general reserve, created or referenced in title 71, chapter 5, part 25;

(7) Department of finance and administration, victim notification fund, created or referenced in title 67, chapter 4, part 6;

(8) Department of finance and administration, horse trailer specialty license plate reserve, created or referenced in title 55, chapter 4, part 3;

(9) Bureau of TennCare, Cover Tennessee litigation settlement reserve, except as otherwise provided by law;

(10) Department of agriculture, animal population specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(11) Department of agriculture, agricultural specialty earmarked license plate reserve, created or referenced in title 55, chapter 4, part 2;

(12) Department of environment and conservation, state parks specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(13) Department of environment and conservation, state parks Ocoee River recreation and economic development fund, created or referenced in title 11, chapter 8, part 1;

(14) Department of environment and conservation, Tennessee historical commission, Tennessee Civil War or War Between the States site preservation fund, created or referenced in chapter 11, part 1 of this title;

(15) Department of environment and conservation, Tennessee historical commission, historic property land acquisition fund, created or referenced in chapter 11, part 1 of this title;

(16) Department of environment and conservation, tire environmental fund, created or referenced in title 68, chapter 211, part 3;

(17) Department of environment and conservation, state parks birds of prey specialty license plate reserve, created or referenced in title 55, chapter

4, part 2;

(18) Tennessee wildlife resources agency, wildlife resources fund, created or referenced in title 70, chapter 1, part 4;

(19) Tennessee wildlife resources agency, boating safety act reserve, created or referenced in title 69, chapter 9, part 2;

(20) Department of education, energy efficient schools initiative reserve, created or referenced in title 49, chapter 17, part 1;

(21) Tennessee higher education commission, postsecondary licensure fee reserve, created or referenced in title 49, chapter 7, part 20;

(22) Attorney general and reporter, consumer affairs division reserve, created or referenced in title 40, chapter 33, part 2;

(23) Department of commerce and insurance, reduced cigarette ignition propensity and firefighter protection act enforcement fund, created or referenced in title 68, chapter 102, part 5;

(24) Tennessee corrections institute, local correctional officer training fund, created or referenced in title 41, chapter 7, part 1;

(25) Department of commerce and insurance, cemetery consumer protection account reserve, created or referenced in title 46, chapter 1, part 1;

(26) Department of commerce and insurance, pre-need funeral consumer protection account reserve, created or referenced in title 62, chapter 5, part 4;

(27) Department of commerce and insurance, securities industry education and enforcement fees, created or referenced in title 48, chapter 1, part 1;

(28) Department of commerce and insurance, insurance industry education and enforcement fees, created or referenced in title 56, chapter 53, part 1;

(29) Department of commerce and insurance, closed estate fund, created or referenced in title 56, chapter 9, part 3;

(30) Department of military, station commander's upkeep and maintenance fund, created or referenced in title 58, chapter 1, part 5;

(31) Department of health, St. Jude Children's Research Hospital specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(32) Department of safety, electronic citation fee reserve, created or referenced in title 55, chapter 10, part 2;

(33) Department of environment and conservation, underground storage tank settlement funds, except as otherwise provided by law;

(34) Department of environment and conservation, solid waste settlement funds, except as otherwise provided by law;

(35) Department of environment and conservation, superfund settlement funds, except as otherwise provided by law;

(36) Department of environment and conservation, leaking underground storage tank settlement funds, except as otherwise provided by law;

(37) Court system, access to justice program reserve, created or referenced in Supreme Court Rule 50 and title 16, chapter 1, part 1;

(38) Court system, board of professional responsibility reserve, created or referenced in Supreme Court Rule 9 and title 16, chapter 1, part 1;

(39) Court system, Tennessee lawyers assistance program reserve, created or referenced in Supreme Court Rule 33 and title 16, chapter 1, part 1;

(40) Court system, commission on continuing legal education program reserve, created or referenced in Supreme Court Rule 21 and title 16,

chapter 1, part 1;

(41) Court system, judicial commissioner continuing education account reserve, created or referenced in title 67, chapter 4, part 6;

(42) District attorneys general conference, fraud and economic crimes reserve, created or referenced in title 40, chapter 3, part 2;

(43) State treasurer, state pooled investment fund administrative reserve, created or referenced in title 9, chapter 4, part 6;

(44) State treasurer, educator liability fund, created or referenced in title 9, chapter 8, part 2;

(45) Department of correction, TDOC confiscated cash fund, created, or referenced in title 4, chapter 6, part 1;

(46) Public defenders conference, indigent defense local litigation tax reserve, created or referenced in title 40, chapter 14, part 2;

(47) Secretary of state, fantasy sports fund, created or referenced in title 47, chapter 18, part 16;

(48) State treasurer, financial literacy program reserve, created or referenced in title 49, chapter 6, part 17;

(49) State treasurer, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;

(50) Department of finance and administration, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;

(51) Department of finance and administration, child abuse fund, created or referenced in title 39, chapter 13, part 5;

(52) Department of finance and administration, anti-human trafficking fund, created or referenced in title 39, chapter 13, part 3;

(53) TennCare, maintenance of coverage trust fund, created or referenced in title 71, chapter 5, part 1;

(54) TennCare, nursing home assessment trust fund, created or referenced in title 71, chapter 5, part 10;

(55) Department of environment and conservation, settlement funds from Lenoir v. Porters Creek Watershed District, 586 F.2d 1081 (1978), except as otherwise provided by law;

(56) Department of environment and conservation, state lands acquisition compensation fund, created or referenced in title 67, chapter 4, part 4;

(57) Department of environment and conservation, settlement funds from Tennessee v. Roane Holdings, Ltd., 835 F.Supp.2d 527 (2011), except as otherwise provided by law;

(58) Department of correction, Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004 reserve, created or referenced in title 40, chapter 39, part 2;

(59) Department of commerce and insurance, Professional Employee Organization Act reserve, created or referenced in title 62, chapter 43, part 1;

(60) Department of labor and workforce development, employee misclassification education and enforcement fund, created or referenced in title 50, chapter 6, part 9;

(61) Department of health, trauma system fund, created or referenced in title 68, chapter 59, part 1; and

(62) Department of revenue, uninsured motorist identification restricted fund, created or referenced in title 55, chapter 12, part 2.

(k) In the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011 and June 30, 2014, transfers are authorized from the following

funds, reserve accounts and programs:

(1) Department of commerce and insurance, state board of accountancy fund, created or referenced in title 62, chapter 1, part 1;

(2) Department of commerce and insurance, division of regulatory boards fund, created or referenced in title 56, chapter 1, part 3;

(3) Department of health, health-related boards fund, created or referenced in title 63, chapter 1, part 1;

(4) Department of commerce and insurance, real estate education and recovery education fund, created or referenced in title 62, chapter 13, part 2;

(5) Department of commerce and insurance, real estate education and recovery claims fund, created or referenced in title 62, chapter 13, part 2; and

(6) Department of commerce and insurance, auctioneer education and recovery account, created or referenced in title 62, chapter 19.

(*l*) In the fiscal years ending June 30, 2020, and June 30, 2021, transfers shall not be made from the following funds, reserve accounts or programs:

(1) Tennessee board of court reporting fund, created or referenced in title 20, chapter 9, part 6;

(2) Department of agriculture, beef promotion board reserve, created or referenced in title 43, chapter 29, part 1; and

(3) Department of agriculture, cotton growers' organization reserve, created or referenced in title 43, chapter 6, part 4.

4-3-2304. Accessible transportation and mobility.

(a) This section shall be known and may be cited as the "Tennessee Accessible Transportation and Mobility Act of 2020."

(b) At the direction of the commissioner, the department shall create and administer an office within the department to be known as the office of accessible transportation and mobility.

(c) The purpose of the office is to provide resources and expertise for expanding and improving accessible transportation and mobility across the state at the direction of the commissioner.

(d) All appropriate state and local agencies shall coordinate with the department of transportation toward the goal of expanding and improving accessible transportation and mobility across the state.

(e) The office shall consult with stakeholders, selected by the department, who are consumers of accessible transportation as well as professionals with experience in transportation, disability, and aging to produce the following on or before March 31, 2021:

(1) A detailed statement on the office's mission and scope of responsibilities;

(2) A five-year strategic plan to guide the office's work; and

(3) A report to the chairs of the transportation committee of the house of representatives and the transportation and safety committee of the senate and to the public regarding needs for mobility and accessible transportation in the state, which is to be submitted annually thereafter.

4-3-3002. Advisory Council.

The Tennessee bureau of investigation shall appoint appropriate persons as leadership of the advisory council. Membership of the advisory council shall

consist of:

(1) At least one (1) representative from the Tennessee bureau of investigation serving as leadership for the advisory council;

(2) One (1) representative from each of the following:

(A) Office of the attorney general and reporter;

(B) Department of labor and workforce development;

(C) Tennessee association of chiefs of police;

(D) Tennessee sheriffs' association;

(E) Department of safety;

(F) District attorneys general conference;

(G) District public defenders conference;

(H) Department of health;

(I) Department of children's services;

(J) Department of human services; and

(K) Alcoholic beverage commission;

(3) At least one (1) representative from each of the following entities, associations, or categories:

(A) A nongovernmental organization specializing in human trafficking;

(B) A member of a community or group disproportionately affected by human trafficking;

(C) An agency or group specializing in child services and runaway services;

(D) An academic researcher specializing in human trafficking; and

(E) A victim of human trafficking; and

(4) One (1) member of the house of representatives to be appointed by the speaker of the house of representatives and one (1) member of the senate to be appointed by the speaker of the senate.

4-3-5402. Part definitions.

As used in this part:

(1) "Board" means the Tennessee hall of fame board created within the department under § 4-3-5404;

(2) "Commissioner" means the commissioner of tourist development, or the commissioner's designee;

(3) "Department" means the department of tourist development; and

(4) "Hall of fame" means the Tennessee sports hall of fame created under § 4-3-5403.

4-3-5403. Creation and administration — Examination and audit.

(a) There is created a Tennessee sports hall of fame.

(b) The board shall administer the hall of fame, pursuant to § 4-3-5404.

(c) The hall of fame is subject to examination and audit by the comptroller of the treasury in the same manner as prescribed for departments and agencies of the state pursuant to § 8-4-109.

4-3-5404. Existing board vacated — Creation of new board — Members — Term of office — Meetings — Executive director.

(a) As of April 4, 2019:

(1) The existing membership of the Tennessee sports hall of fame board of

directors is vacated and the board ceases to exist; and

(2) The position of executive director of the board of directors and any other position of employment with the board is vacated and those positions cease to exist.

(b)(1) There is created the Tennessee sports hall of fame board. For administrative purposes, the hall of fame is attached to the department. The board is composed of nineteen (19) voting members as follows:

(A) Six (6) members each being appointed by the governor, the speaker of the senate, and the speaker of the house of representatives; and

(B) The commissioner.

(2) Each appointing authority shall appoint two (2) members from each grand division of this state, and when making future appointments, shall ensure that the grand divisions are equally represented.

(3) In order to stagger the terms of the newly appointed board members:

(A) The governor shall appoint six (6) persons to initial terms expiring on July 1, 2023;

(B) The speaker of the senate shall appoint six (6) persons to initial terms expiring on July 1, 2022; and

(C) The speaker of the house of representatives shall appoint six (6) persons to initial terms expiring on July 1, 2021.

(4) Following the initial terms, all appointed members of the board shall serve terms of four (4) years. A member shall not serve more than two (2) consecutive four-year terms.

(5) Existing members of the Tennessee sports hall of fame board of directors, as of the day immediately preceding April 4, 2019, are not eligible for appointment to the board.

(c) In the event of a vacancy for an appointed member of the board, the respective appointing authority shall fill the vacancy for the unexpired term. Each appointee shall serve until a successor is duly appointed and qualified.

(d) The commissioner shall call the first meeting of the board after April 4, 2019. At the first meeting, and at the first meeting of each year thereafter, the board shall elect from among its members:

(1) A chair, vice chair, and any other officers deemed necessary; and

(2) An executive committee to be composed of seven (7) members, with two (2) members representing each grand division of this state, and the commissioner, who shall serve as chair of the executive committee.

(e) The board shall meet at the call of the chair and not less than two (2) times per year.

(f) The members of the board are not entitled to any compensation for their service on the board, nor are the members entitled to per diem or travel expenses for purposes of carrying out their duties under this part.

(g) Meetings of the board must comply with the open meeting requirements of title 8, chapter 44.

(h) All records of the board are deemed to be public records for purposes of the public records law, compiled in title 10, chapter 7.

(i) The commissioner may appoint hall of fame personnel subject to the approval of the board. Nothing in this subsection (i) prohibits members from submitting recommendations to the commissioner for the appointment of hall of fame personnel. The hall of fame's personnel shall not be considered state employees for any purposes. The hall of fame's personnel are subject to an annual performance review by the commissioner, and upon completion of the

review, the commissioner shall report the findings to the board.

(j) [Deleted by 2020 amendment.]

4-3-5405. Duties of board — Plan of operation.

(a) The board shall:

(1) Nominate and induct qualified athletes, athletic teams, sports personalities, and sporting events to the hall of fame in accordance with guidelines prescribed by the board, subject to approval by the commissioner;

(2) Conduct fundraising to support the hall of fame. Any funds raised by the board must be used to support the hall of fame and held by the department and accounted for separately for such use;

(3) Offer advice and guidance to the commissioner for purposes of the commissioner's administration of the hall of fame, including, but not limited to:

(A) Suggesting programs and campaigns that are designated to promote the spirit of sportsmanship and genteel competition both inside and outside the arena of athletic competition; and

(B) Recommending guidelines and criteria, consistent with the purposes of the hall of fame, for purposes of assisting the commissioner with the administration of a scholarship program under § 4-3-5407; and

(4) For good cause shown, review, reconsider, and renominate, in whole or in part, a previous class elected to the hall of fame.

(b)(1) At least ninety (90) days prior to the beginning of each state fiscal year, the board shall submit a plan for operation to the commissioner for review and approval. The plan of operation must be in such form as the department requires and must include, but not be limited to, the following:

(A) A budget for operating and capital expenditure;

(B) Contracts for services; and

(C) Policies and procedures adopted by the board to govern the expenditure of funds, including any such policies and procedures required by the department through rules.

(2) The plan of operation may be amended during the fiscal year with the written approval of the commissioner.

(3) Within ninety (90) days after the end of its fiscal year, the board shall annually submit to the department and comptroller of the treasury a report setting forth the board's accomplishments.

4-3-5406. Purposes of the hall of fame — Commissioner facilitation.

(a) In providing administrative support to the hall of fame, the commissioner shall facilitate the purposes of the hall of fame, which are to:

(1) Honor, preserve, and perpetuate the names and accomplishments of outstanding athletes, athletic teams, and other sports personalities who are natives of Tennessee;

(2) Honor persons who have competed on teams for, or worked for, Tennessee institutions of learning;

(3) Honor persons with outstanding athletic records who reside in the state of Tennessee at the time of their nomination;

(4) Honor deceased persons with outstanding athletic records who were residents of Tennessee;

(5) Establish, erect, and maintain a permanent archive for the collection and display of memorabilia related to the lives and careers of individuals,

teams, and sports events chosen for induction into the hall of fame; and

(6) Inform the public about the lives and accomplishments of the inductees and purposes of the hall of fame.

(b) The commissioner may delegate any duties under subsection (a) to the board as the commissioner deems necessary.

4-3-5407. Powers of the commissioner.

The commissioner may:

(1) Request from any branch, department, division, board, bureau, commission, or other agency of the state or that receives state funds, such information as will enable the commissioner and board to best serve the hall of fame and perform the duties required by this part;

(2) Enter into any mutual agreements and contracts for the employment of personnel and operation of the hall of fame, excluding the requirements of § 4-3-1105. Nothing in this part or any other law, except title 9, chapter 8, shall be construed as a waiver of the state's immunity under the eleventh amendment to the Constitution of the United States or of the state's sovereign immunity for the board, its directors, officers, or employees;

(3) Administer a scholarship program to award privately funded scholarships to students based on guidelines and criteria recommended by the board, consistent with the purposes of the hall of fame; and

(4) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for purposes of carrying out this part.

4-3-5503. Staffing — Division of strategic technology solutions.

(a) The division of strategic technology solutions in the department of finance and administration shall serve as staff to the information systems council. In addition, the division of strategic technology solutions shall facilitate the use of information systems, provide technical direction and assistance to departments and agencies for all distributive processing and network related systems, and serve as a computer service bureau.

(b)(1) In accordance with the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541 et seq.), and the criminal justice information services (CJIS) security policy, a criminal history background check performed by the Tennessee bureau of investigation and the federal bureau of investigation shall be required for all employees and contractors of the division of strategic technology solutions having elevated and privileged access to criminal justice information systems or to information accessed via criminal justice information systems. The department of human resources shall maintain classifications of employees subject to the criminal history background check. Background checks shall include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation. The department of finance and administration shall establish policies concerning the implementation and use of criminal history background checks conducted pursuant to this section.

(2) The state shall pay for costs associated with criminal history background checks conducted pursuant to this section.

4-5-320. Proceedings affecting licenses.

(a) When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct that warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary action, including suspension of a license or other licensure restriction or action as may be appropriate to protect the public, may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(d)(1) Notwithstanding subsection (c), in issuing an order of summary action against a license the agency shall use one (1) of the following procedures:

(A) The agency shall issue a notice to the licensee providing an opportunity for a prompt informal hearing, review or conference before the agency prior to the issuance of an order of summary action; or

(B) The agency shall proceed with the summary action and notify the licensee of the opportunity for an informal hearing, review or conference before the agency within seven (7) business days of the issuance of the order of summary action.

(2) The notice provided to the licensee may be provided by any reasonable means and shall inform the licensee of the reasons for the action or intended action of the agency and of the opportunity for an informal hearing, review or conference before the agency. The informal hearing, review or conference described by this subsection (d) shall not be required to be held under the contested case provisions of this chapter. The hearing, review or conference is intended to provide an informal, reasonable opportunity for the licensee to present the licensee's version of the situation to the person or entity authorized by law to take the summary action against the license involved. Whether the informal hearing, review or conference is held before or after an order of summary action, the sole issue to be considered is whether the public health, safety or welfare imperatively required emergency action by the agency.

4-8-301. Established — Membership — Chair — Compensation.

(a)(1) There is hereby created the state capitol commission, which shall be composed of seven (7) ex officio members, as follows: the commissioner of general services, the comptroller of the treasury, the secretary of state, the state treasurer, the commissioner of finance and administration, the commissioner of environment and conservation, and the chair of the Tennessee historical commission, or their respective designees. In addition, the mem-

bership shall include two (2) legislative members as follows: one (1) member appointed by the speaker of the senate and one (1) member appointed by the speaker of the house of representatives.

(2) The commission membership shall also include three (3) private citizens appointed by the governor to staggered terms of three (3) years.

(A) In appointing private citizens to serve on the state capitol commission, the governor shall strive to ensure that at least one (1) such citizen serving on the commission is sixty (60) years of age or older and that at least one (1) such citizen serving on the commission is a member of a racial minority.

(B) At least one (1) of the private citizens appointed by the governor shall be a black person.

(C)(i) In appointing private citizens to serve on the state capitol commission, the governor shall appoint one (1) person from each of the three (3) grand divisions of the state.

(ii) The private citizen members serving on the commission on March 20, 2012, shall continue to serve until they either vacate their positions or their terms of office expire, whichever occurs first, whereupon the governor shall appoint persons to fill the positions in accordance with subdivision (a)(2)(C)(i).

(3)(A) The commission membership shall also include one (1) private citizen member to be appointed by the speaker of the senate and one (1) private citizen member to be appointed by the speaker of the house of representatives.

(B) The members appointed under subdivision (a)(3)(A) shall serve terms of three (3) years, with such terms to begin on July 1 and expire on June 30, every three (3) years thereafter.

(b) The governor shall appoint a chair from among the full membership of the commission.

(c) All members shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

4-12-114. Bill Haslam Center.

(a) The building that houses the Tennessee state museum located at 1000 Rosa L. Parks Boulevard is designated as the "Bill Haslam Center".

(b) The state museum shall erect suitable markers or affix suitable signs designating the museum as the "Bill Haslam Center". The state museum shall fund all costs related to the signage.

4-12-203. Part definitions.

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

(1) "Tennessee state museum" means the facility operated as the military branch of the Tennessee state museum in the War Memorial Building, the facility in the James K. Polk Building, and the Bill Haslam Center located at 1000 Rosa L. Parks Boulevard; and

(2) "The various collections of articles, specimens and relics placed under the charge of the state museum executive director" means those collections owned and acquired by the state, the Tennessee Historical Society, Inc., or other entities.

4-12-302. Tennessee state museum — Defined.

As used in this part, unless the context otherwise requires, "Tennessee state museum" means the facility operated as the military branch of the Tennessee state museum in the War Memorial Building, the facility located in the James K. Polk Building, and the Bill Haslam Center located at 1000 Rosa L. Parks Boulevard.

4-29-241. Governmental entities terminated on June 30, 2020.

(a) The following governmental entities shall terminate on June 30, 2020:
(1) [Deleted by 2020 amendment; transferred to § 4-29-248.]
(2) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(3) [Deleted by 2020 amendment; transferred to § 4-29-242.]
(4) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(5) [Deleted by 2020 amendment; transferred to § 4-29-244.]
(6) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(7) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(8) [Deleted by 2020 amendment; transferred to § 4-29-244.]
(9) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(10) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(11) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(12) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(13) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(14) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(15) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(16) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(17) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(18) [Deleted by 2020 amendment; transferred to § 4-29-244.]
(19) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(20) [Deleted by 2020 amendment; transferred to § 4-29-244.]
(21) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(22) [Deleted by 2020 amendment; transferred to § 4-29-244.]
(23) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(24) [Deleted by 2020 amendment; transferred to § 4-29-248.]
(25) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(26) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(27) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(28) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(29) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(30) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(31) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(32) [Deleted by 2020 amendment; transferred to § 4-29-243.]
(33) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(34) [Terminated by 2020 amendment.]
(35) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(36) Polysomnography professional standards committee, created by § 63-31-103;
(37) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(38) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(39) [Deleted by 2020 amendment; transferred to § 4-29-242.]
(40) [Deleted by 2020 amendment.]

(41) [Deleted by 2020 amendment.]
(42) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(43) [Deleted by 2020 amendment; transferred to § 4-29-248.]
(44) State board for licensing alarm systems contractors, created by § 62-32-306;
(45) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(46) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(47) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(48) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(49) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(50) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(51) [Deleted by 2020 amendment; transferred to § 4-29-248.]
(52) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(53) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(54) [Deleted by 2019 amendment; transferred to § 4-29-242.]
(55) [Deleted by 2020 amendment; transferred to § 4-29-242.]
(56) [Deleted by 2016 amendment, commission terminated.]
(57) [Deleted by 2020 amendment; transferred to § 4-29-243.]
(58) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(59) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(60) [Deleted by 2020 amendment; transferred to § 4-29-248.]
(61) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(62) [Deleted by 2020 amendment; transferred to § 4-29-246.]
(63) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(64) Tennessee radiologic imaging and radiation therapy board of examiners, created by § 63-6-901;
(65) [Deleted by 2020 amendment; transferred to § 4-29-249.]
(66) [Deleted by 2020 amendment; transferred to § 4-29-245.]
(67) [Deleted by 2020 amendment; transferred to § 4-29-247.]
(68) [Deleted by 2020 amendment; transferred to § 4-29-243.]
(69) [Deleted by 2020 amendment; transferred to § 4-29-249.]

(b) Each department, commission, board, agency or council of state government created during calendar year 2018 terminates on June 30, 2020.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished or restructured in accordance with this chapter.

4-29-242. Governmental entities terminated on June 30, 2021.

(a) The following governmental entities terminate on June 30, 2021:
(1) Advisory council on workers' compensation, created by § 50-6-121;
(2) Alcoholic beverage commission, created by § 57-1-102;
(3) Austin Peay State University, board of trustees, created by §§ 49-8-101 and 49-8-201;
(4) Beef promotion board, created by § 43-29-118;
(5) Board of chiropractic examiners, created by § 63-4-102;
(6) Board of communication disorders and sciences, created by § 63-17-104;
(7) Board of dentistry, created by § 63-5-101;
(8) Board of dispensing opticians, created by § 63-14-101;
(9) Board of examiners in psychology, created by § 63-11-101;

(10) Board of medical examiners' committee on physician assistants, created by § 63-19-103;

(11) Board of nursing, created by § 63-7-201;

(12) Board of optometry, created by § 63-8-103;

(13) Board of podiatric medical examiners, created by § 63-3-103;

(14) Board of veterinary medical examiners, created by § 63-12-104;

(15) Bureau of ethics and campaign finance, created by § 4-55-101;

(16) Committee for purchase from the blind and other severely disabled, created by § 71-4-703;

(17) Consumer advocate division in the office of the attorney general and reporter, created by § 65-4-118;

(18) Delta human resource agency, created by § 13-26-102;

(19) Department of children's services, created by §§ 4-3-101 and 37-5-101;

(20) Department of economic and community development, created by §§ 4-3-101 and 4-3-701;

(21) Department of financial institutions, created by §§ 4-3-101 and 4-3-401;

(22) Department of mental health and substance abuse services, created by §§ 4-3-101 and 4-3-1601;

(23) East Tennessee human resource agency, created by § 13-26-102;

(24) East Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201:

(25) Egg promotion board, created by § 43-29-120;

(26) Emergency communications board, created by § 7-86-302;

(27) First Tennessee human resource agency, created by § 13-26-102;

(28) Health services and development agency, created by § 68-11-1604;

(29) [Deleted by 2018 amendment; transferred to § 4-29-241.]

(30) James K. Polk memorial association, created by § 4-13-201;

(31) Mid-Cumberland human resource agency, created by § 13-26-102;

(32) Middle Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201:

(33) Northwest Tennessee human resource agency, created by § 13-26-102;

(34) Occupational safety and health review commission, created by § 50-3-801;

(35) Ocoee River recreation and economic development fund board, created by § 11-8-104;

(36) Pork promotion board, created by § 43-29-119;

(37) Private probation services council, created by § 16-3-901;

(38) Regional transportation authority of Middle Tennessee, created by § 64-8-101;

(39) Second look commission, created by § 37-3-803;

(40) South Central Tennessee human resource agency, created by § 13-26-102;

(41) Southeast Tennessee human resource agency, created by § 13-26-102;

(42) Southeastern Interstate Forest Fire Protection Compact, created by § 11-4-501;

(43) Southwest Tennessee human resource agency, created by § 13-26-102;

(44) State Alzheimer's disease and related dementia advisory council, created by § 71-2-117;

(45) State board of equalization, created by § 4-3-5101;

(46) State board of examiners for land surveyors, created by § 62-18-103;

(47) State forestry commission, created by § 11-4-201;

(48) State TennCare pharmacy advisory committee, created by § 71-5-2401;

(49) State textbook and instructional materials quality commission, created by § 49-6-2201;

(50) Statewide community services agency, created by § 37-5-305;

(51) Statewide planning and policy council for the department of mental health and substance abuse services, created by § 33-1-401;

(52) Tennessee advisory commission on intergovernmental relations, created by § 4-10-102;

(53) Tennessee aeronautics commission, created by § 42-2-301;

(54) Tennessee athletic commission, created by § 68-115-103;

(55) Tennessee board of judicial conduct, created by § 17-5-201;

(56) Tennessee bureau of investigation, created by § 38-6-101;

(57) Tennessee council for career and technical education, created by § 49-11-201;

(58) Tennessee council on autism spectrum disorder, created by § 4-3-2711;

(59) Tennessee dairy promotion committee, created by § 44-19-114;

(60) Tennessee financial literacy commission, created by § 49-6-1702;

(61) Tennessee public school charter commission, as created by § 49-13-105;

(62) Tennessee public utility commission, created by § 65-1-101;

(63) Tennessee soybean promotion board, created by § 43-20-102;

(64) Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201;

(65) Tennessee Technological University, board of trustees, created by §§ 49-8-101 and 49-8-201;

(66) Tennessee technology development corporation, created by § 4-14-301;

(67) Tennessee wine and grape board, created by § 57-3-1101;

(68) University of Memphis, board of trustees, created by §§ 49-8-101 and 49-8-201; and

(69) Upper Cumberland human resource agency, created by § 13-26-102.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2019 shall terminate on June 30, 2021.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-243. Governmental entities terminated on June 30, 2022.

(a) The following governmental entities shall terminate on June 30, 2022:

(1) Advisory board for rehabilitation centers, created by § 49-11-704;

(2) Applied behavior analyst licensing committee of the board of examiners in psychology, created by § 63-11-303;

(3) Archaeological advisory council, created by § 11-6-103;

(4) Board of athletic trainers, created by § 63-24-102;

(5) Board of dietitian/nutritionist examiners, created by § 63-25-106;

(6) Board of examiners for nursing home administrators, created by § 63-16-102;

(7) Board of parole, created by § 40-28-103;

(8) Board of respiratory care, created by § 63-27-103;

(9) Bureau of TennCare within the department of finance and administration, pursuant to Executive Order No. 23 on October 19, 1999;

(10) Council for licensing hearing instrument specialists, created by § 63-17-202;

(11) Council of certified professional midwifery, created by § 63-29-103;

(12) Council on children's mental health care, created by § 37-3-111;

(13) Department of agriculture, created by §§ 4-3-101 and 4-3-201;

(14) Department of education, created by §§ 4-3-101 and 4-3-801;

(15) Department of human services, created by §§ 4-3-101 and 4-3-1201;

(16) Department of revenue, created by §§ 4-3-101 and 4-3-1901;

(17) Department of tourist development, created by §§ 4-3-101 and 4-3-2201;

(18) Department of veterans services, created by §§ 4-3-101 and 4-3-2501;

(19) Domestic violence state coordinating council, created by § 38-12-101;

(20) Great Smoky Mountains Park commission, created by § 11-19-101;

(21) Housing development agency, board of directors, created by § 13-23-104;

(22) Interstate Compact on Mental Health, created by § 33-9-201;

(23) Interstate Compact on the Placement of Children, created by § 37-4-201;

(24) Interstate Insurance Product Regulation Compact of 2007, created by § 56-58-101;

(25) Local government planning advisory committee, created by § 4-3-727;

(26) Memphis regional megasite authority, created pursuant to § 64-6-101;

(27) Pest control advisory board, created by § 62-21-104;

(28) School bond authority, created by § 49-3-1204;

(29) Southeast Interstate Low-Level Radioactive Waste Compact, created by § 68-202-701;

(30) State board of cosmetology and barber examiners, created by §§ 62-3-101 and 62-4-103;

(31) State family support council, created by § 33-5-208;

(32) State soil conservation committee, created by § 43-14-203;

(33) State university and community college system, board of regents, created by § 49-8-201;

(34) Statewide planning and policy council for the department of intellectual and developmental disabilities, created by § 33-5-601;

(35) Tellico Reservoir development agency, created by § 64-1-701;

(36) Tennessee advisory committee for acupuncture, created by § 63-6-1003;

(37) Tennessee arts commission, created by § 4-20-101;

(38) Tennessee center for earthquake research and information, created by § 49-8-602;

(39) Tennessee emergency medical services board, created by § 68-140-303;

(40) Tennessee equine health advisory commission, created by § 43-13-103;

(41) Tennessee film, entertainment and music commission, created by § 4-3-5003;

(42) Tennessee fish and wildlife commission, created by § 70-1-201;

(43) Tennessee higher education commission, created by § 49-7-201;

(44) Tennessee life and health insurance guaranty association, created by § 56-12-205;

(45) Tennessee massage licensure board, created by § 63-18-103;

(46) Tennessee medical laboratory board, created by § 68-29-109;

(47) Tennessee rare disease advisory council, created by § 71-7-101;

(48) Tennessee rehabilitative initiative in correction board, created by § 41-22-404;

(49) Tennessee residence commission, created by § 4-23-202;

(50) Tennessee sports hall of fame, created by § 4-3-5403;

(51) Tennessee student assistance corporation, board of directors, created by § 49-4-202;

(52) Water and wastewater operators, board of certification, created by § 68-221-905; and

(53) West Fork Drakes Creek dam and reservoir interstate authority, created by § 64-1-901.

(b) Each department, commission, board, agency or council of state government created during calendar year 2020 terminates on June 30, 2022.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-244. Governmental entities terminated on June 30, 2023. [See contingent amendment to subdivision (a)(24) and Compiler's Notes.]

(a) The following governmental entities shall terminate on June 30, 2023:

(1) Board for licensing healthcare facilities, created by § 68-11-203;

(2) Board for professional counselors, marital and family therapists, and clinical pastoral therapists, created by § 63-22-101;

(3) Board of appeals for the department of human resources, created by § 8-30-108;

(4) Board of boiler rules, created by § 68-122-101;

(5) Board of medical examiners, created by § 63-6-101;

(6) Board of pharmacy, created by § 63-10-301;

(7) Board of trustees of the college savings trust fund program, created by § 49-7-804;

(8) Controlled substance database advisory committee, created by § 53-10-303;

(9) Department of commerce and insurance, created by §§ 4-3-101 and 4-3-1301;

(10) Department of environment and conservation, created by §§ 4-3-101 and 4-3-501;

(11) Department of health, created by §§ 4-3-101 and 4-3-1801;

(12) Department of human resources, created by §§ 4-3-101 and 4-3-1701;

(13) Department of intellectual and developmental disabilities, created by §§ 4-3-101 and 4-3-2701;

(14) Department of safety, created by §§ 4-3-101 and 4-3-2001;

(15) Doe Mountain recreation authority, created by § 11-25-103;

(16) Elevator and amusement device safety board, created by § 68-121-102;

(17) Employee suggestion award board, created by § 4-27-102;

(18) Energy efficient schools council, created by § 49-17-103;

(19) Prevailing wage commission, created by § 12-4-404;

(20) Sam Davis memorial association, board of trustees, created by § 4-13-301;

(21) Selection panel for TennCare reviewers, created by § 56-32-126;

(22) State unemployment compensation advisory council, created by § 50-7-606;

(23) [Deleted by 2019 amendment; transferred to § 4-29-241.]

(24) **[Current version. See second version for contingent amendment and Compiler's Notes.]** Tennessee board of water quality, oil, and gas, created by § 69-3-104;

(24) **[Contingent amendment. See the Compiler's Notes.]** Tennessee board of energy and natural resources, created by § 69-3-104;

(25) Tennessee consolidated retirement system, board of trustees, created by § 8-34-301;

(26) Tennessee heritage conservation trust fund board of trustees, created by § 11-7-104;

(27) Tennessee interagency cash flow committee, created by § 9-4-610;

(28) Tennessee state veterans' homes board, created by § 58-7-102;

(29) Underground storage tanks and solid waste disposal control board, created by § 68-211-111; and

(30) Underground utility damage enforcement board, created by § 65-31-114.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2021 terminates on June 30, 2023.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-245. Governmental entities terminated on June 30, 2024.

(a) The following governmental entities shall terminate on June 30, 2024:

(1) Advisory council on state procurement, created by § 4-56-106;

(2) Board of funeral directors and embalmers, created by § 62-5-201;

(3) Bureau of workers' compensation, created by § 4-3-1408;

(4) Child care agency licensing board of review, created by § 71-3-510;

(5) Collection service board, created by § 62-20-104;

(6) Commission for uniform legislation, created by § 4-9-101;

(7) Commission on children and youth, created by § 37-3-102;

(8) Compact for Education, created by § 49-12-201;

(9) Department of correction, created by §§ 4-3-101 and 4-3-601;

(10) Department of finance and administration, created by §§ 4-3-101 and 4-3-1001;

(11) Department of general services, created by §§ 4-3-101 and 4-3-1101;

(12) Department of labor and workforce development, created by §§ 4-3-101 and 4-3-1403;

(13) Department of transportation, created by §§ 4-3-101 and 4-3-2301;

(14) Interstate Mining Compact, created by § 59-10-101;

(15) Medical advisory committee, created by § 50-6-135;

(16) Medical payment committee, created by § 50-6-125;

(17) Private investigation and polygraph commission, created by § 62-26-301;

(18) Public records commission, created by § 10-7-302;

(19) Real estate appraiser commission, created by § 62-39-201;

(20) Real estate commission, created by § 62-13-201;

(21) Standards committee, department of children's services, created by § 37-5-516;

(22) State board of education, created by § 49-1-301;

(23) State election commission, created by § 2-11-101;

(24) State energy policy council, created by § 68-204-101;

(25) State funding board, created by § 9-9-101;

(26) State procurement commission, created by § 4-56-102;

(27) State protest committee, created by § 4-56-103;

(28) Tennessee auctioneer commission, created by § 62-19-104;

(29) Tennessee board of court reporting, created by § 20-9-604;

(30) Tennessee central economic authority, created by § 64-5-101;

(31) Tennessee corrections institute, board of control, created by § 41-7-105;

(32) Tennessee-Tombigbee waterway development authority, created by § 69-8-101;

(33) Trial court vacancy commission, created by § 17-4-301; and

(34) University of Tennessee, board of trustees, created by § 49-9-202.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2022 terminates on June 30, 2024.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-246. Governmental entities terminated on June 30, 2025.

(a) The following governmental entities shall terminate on June 30, 2025:

(1) Advisory committee for children's special services, created by § 68-12-106;

(2) Air pollution control board, created by § 68-201-104;

(3) Board of alcohol and drug abuse counselors, created by § 68-24-601;

(4) Board of claims, created by § 9-8-101;

(5) Board of ground water management, created by § 69-10-107;

(6) Board of occupational therapy, created by § 63-13-216;

(7) Board of osteopathic examination, created by § 63-9-101;

(8) Board of physical therapy, created by § 63-13-318;

(9) Chickasaw basin authority, created by § 64-1-201;

(10) Civil Defense and Disaster Compact, created by § 58-2-402;

(11) Commission on firefighting personnel standards and education, created by § 4-24-101;

(12) Council on pensions and insurance, created by § 3-9-101;
(13) Douglas Henry state museum commission, created by § 4-20-301;
(14) Emergency Management Assistance Compact, created by § 58-2-403;
(15) Genetic advisory committee, created by § 68-5-503;
(16) Human rights commission, created by § 4-21-201;
(17) Industrial development division, building finance committee, created by § 4-14-109;
(18) Information systems council, created by § 4-3-5501;
(19) Interstate Compact on Detainers, created by § 40-31-101;
(20) Interstate Corrections Compact, created by § 41-23-102;
(21) Interstate Earthquake Compact of 1988, created by § 58-2-701;
(22) Perinatal advisory committee, created by § 68-1-803;
(23) Standards committee, department of human services, created by § 71-3-511;
(24) Tennessee claims commission, created by § 9-8-301;
(25) Tennessee code commission, created by § 1-1-101;
(26) Tennessee community resource board, created by § 41-10-105.
(27) Tennessee emergency management agency, created by §§ 58-2-103 and 58-2-104;
(28) Tennessee historical commission, created by § 4-11-102;
(29) Tennessee medical examiner advisory council, created by § 38-7-201;
(30) Tennessee peace officers standards and training commission, created by § 38-8-102;
(31) Tennessee public television council, created by § 49-50-905;
(32) Tennessee wars commission, created by § 4-11-301;
(33) Traumatic brain injury advisory council, created by § 68-55-102; and
(34) Wastewater financing board, created by § 68-221-1008.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2023 terminates on June 30, 2025.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-247. Governmental entities terminated on June 30, 2026.

(a) The following governmental entities shall terminate on June 30, 2026:
(1) Board of examiners for architects and engineers, created by § 62-2-201;
(2) Board of social work licensure, created by § 63-23-101;
(3) Collateral pool board, created by § 9-4-506;
(4) Committee for clinical perfusionists, created by § 63-28-112;
(5) Integrated criminal justice steering committee, created by § 16-3-815;
(6) Interstate Compact for Juveniles, created by § 37-4-101;
(7) Interstate Compact for Supervision of Adult Offenders, created by § 40-28-401;
(8) Local education insurance committee, created by § 8-27-301;
(9) Local government insurance committee, created by § 8-27-701;
(10) Office of business enterprise, created by § 4-26-101;
(11) Post-conviction defender oversight commission, created by § 40-30-203;
(12) Sequatchie Valley educational development agency, created by §§ 64-

1-501 and 64-1-502;

(13) Sex offender treatment board, created by § 39-13-704;

(14) State board for licensing contractors, created by § 62-6-104;

(15) State board of accountancy, created by § 62-1-104;

(16) State building commission, created by § 4-15-101;

(17) State capitol commission, created by § 4-8-301;

(18) State insurance committee, created by § 8-27-201;

(19) Tennessee commission on aging and disability, created by § 71-2-104;

(20) Tennessee motor vehicle commission, created by § 55-17-103; and

(21) Utility management review board, created by § 7-82-701.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2024 terminates on June 30, 2026.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-248. Governmental entities terminated on June 30, 2027.

(a) The following governmental entities terminate on June 30, 2027:

(1) Advisory council for the education of students with disabilities, created by § 49-10-105;

(2) Child care advisory council, created by § 49-1-302;

(3) Dyslexia advisory council, created by § 49-1-229;

(4) Southern states energy board, created by § 68-202-601;

(5) Southern States Nuclear Compact, created by § 68-202-601; and

(6) Southern Regional Education Compact, created by § 49-12-101;

(7) State palliative care and quality of life council, created by § 71-2-116;

(8) Tennessee agricultural hall of fame board, created by § 43-1-601; and

(9) Tennessee council for the deaf, deaf-blind, and hard of hearing, created by § 71-4-2102.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2025 terminates on June 30, 2027.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-249. Governmental entities terminated on June 30, 2028.

(a) The following governmental entities terminate on June 30, 2028:

(1) Beech River watershed development authority, board of directors, created by § 64-1-101;

(2) Board of law examiners, created by § 23-1-101;

(3) Carroll County watershed authority, created by § 64-1-801;

(4) Interstate Nurse Licensure Compact, created by § 63-7-401;

(5) Physical therapy licensure compact, created by § 63-13-401;

(6) Rail service authorities, created by § 7-56-201;

(7) South Central Tennessee railroad authority, created by § 64-2-201;

(8) Tennessee Duck River development agency, created by §§ 64-1-601 and 64-1-602;

(9) Tri-county railroad authority, created by § 64-2-301; and

(10) West Tennessee River basin authority, created by § 64-1-1101.

(b) Each department, commission, board, agency, or council of state govern-

ment created during calendar year 2026 terminates on June 30, 2028.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-51-133. List of individuals collecting more than $3,500.

On a monthly basis, the Tennessee education lottery corporation shall provide to the department of human services the following information of any individual collecting a prize of more than three thousand five hundred dollars ($3,500):

(1) Name;

(2) Prize amount; and

(3) Any other available identifying information.

4-56-106. Advisory council on state procurement — Creation.

(a)(1) Effective November 1, 2011, there is created an advisory council on state procurement. There shall be five (5) voting members of the council. There shall be seven (7) nonvoting members of the council representing the proposer and vendor community and other procurement professionals. All members shall have a demonstrable working knowledge of the state procurement process. In making the appointments to the advisory council, the appointing authorities shall give due consideration to the need for geographic, age, racial, gender, and ethnic diversity on the council.

(2) The five (5) voting members of the council shall consist of one (1) representative of state agencies appointed by the commissioner of general services, one (1) representative from the department of general services to be appointed by the commissioner of general services, one (1) representative from the department of finance and administration to be appointed by the commissioner of finance and administration, one (1) representative from the office of the comptroller of the treasury to be appointed by the comptroller of the treasury, and the chief procurement officer who shall serve as chair. The initial appointments by the commissioners shall be made prior to November 1, 2011. The initial appointment by the comptroller of the treasury shall be made prior to November 1, 2011. Any vacancy shall be filled for the unexpired term by the appointing authority making the initial appointment. The pattern established for initial appointments shall be followed for appointments by the appropriate officials when appointments are to fill expired terms.

(b)(1) Voting members appointed by the commissioner of general services shall serve a staggered four-year term, beginning November 1, 2011. These voting members of the council shall, upon expiration of the member's term, be eligible for reappointment and shall serve until a successor is appointed.

(2)(A) The terms shall be staggered so that the terms of only two (2) voting members shall terminate at the same time.

(B) The term of one (1) voting member initially appointed by the commissioner of general services and the voting member appointed by the commissioner of finance and administration shall be for a two-year term to begin on November 1, 2011, to expire on October 31, 2013, and the successors shall serve a four-year term to begin on November 1, and expire October 31 of the appropriate year.

(C) The term of the other voting member initially appointed by the commissioner of general services shall be for a three-year term to begin on November 1, 2011, to expire on October 31, 2014, and the successor shall serve a four-year term to begin on November 1, and expire October 31 of the appropriate year.

(D) The chief procurement officer shall be an ex officio member whose term shall begin November 1, 2011.

(E) The one (1) voting member appointed by the comptroller of the treasury shall be appointed for a four-year term to begin on November 1, 2011, to expire on October 31, 2015. The successor shall serve a four-year term to begin on November 1, and expire October 31 of the appropriate year.

(3) Proxy voting is prohibited by voting members of the council; provided, however, that, in instances where a voting member will be absent from a vote of the council, the member's appointing authority is authorized to appoint an alternate or designee for the vote.

(4)(A) Any voting member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year is removed as a member of the council.

(B) The presiding officer of the council shall promptly notify, or cause to be notified, the appointing authority of any voting member who fails to satisfy the attendance requirement as prescribed in subdivision (b)(4)(A).

(c) Except as provided in subsections (a) and (b), the seven (7) nonvoting members shall be selected to serve staggered four-year terms as follows:

(1) The speaker of the house of representatives, the speaker of the senate, and the governor shall each appoint two (2) representatives, with one (1) representative from the bidder or vendor community and one (1) representative recommended by the National Institute of Government Purchasing. The final advisory nonvoting member appointment shall be appointed by the chair of the fiscal review committee. The initial appointments to the council shall be made prior to November 1, 2011, by the speaker of the senate and the speaker of the house of representatives. The pattern established for initial appointments shall be followed for appointments by the appropriate officials when appointments are to fill expired terms;

(2) The nonvoting member appointed by the chair of the fiscal review committee shall serve a two-year term, beginning November 1, 2011, until the term expires October 31, 2013. The nonvoting member appointed by the chair of fiscal review shall be eligible for reappointment to succeeding two-year terms without limitation; the two-year term of office of successor appointees shall begin November 1, and expire October 31 of the appropriate year; and

(3) The initial appointments of the nonvoting members shall be staggered. The speaker of the senate and the speaker of the house of representatives shall each initially appoint one (1) member for a two-year term to begin November 1, 2011, and expire October 31, 2013, and one (1) member for a three-year term to begin November 1, 2011, and expire October 31, 2014; and the governor shall initially appoint one (1) member for a two-year term to begin November 1, 2011, and expire October 31, 2013, and one (1) member for a three-year term to begin November 1, 2011, and expire October 31, 2014. All subsequent appointments shall be for a four-year term to begin November 1, and expire October 31 of the appropriate year.

(d) Except as provided in subdivision (c)(1)(B), each nonvoting member of

the council, upon expiration of the member's term, shall not be eligible for reappointment for two (2) years after the conclusion of that member's term. In no event shall a nonvoting member of the council serve more than four (4) consecutive years as a nonvoting member of the council. In the event a member resigns or becomes ineligible for service during the member's term, a successor shall be appointed by the appropriate appointing authority to serve the remainder of the term.

(e) No employer shall discriminate in any manner against an employee who serves on the council because of the employee's service on the council. Employees who serve on the council shall not be denied any benefit from their employer because of the employee's service on the council.

(f) Members of the council shall not be paid but may be reimbursed for travel expenses. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(g) The council shall meet at least twice each year for the discussion of problems and recommendations for improvement of the procurement process or any other matter relevant to procurement as determined by the chief procurement officer.

(h) The council shall review and issue a formal comment approved by the council on procurement policies, standards, guidelines, and procedures established by the chief procurement officer prior to being presented for approval by the commission. All reviews and formal comments shall be issued within sixty (60) days of being presented to the council by the chief procurement officer. The formal comments approved by the council shall be provided to the members of the commission, and the officers of the fiscal review committee.

(i) When requested by the chief procurement officer, the council may conduct studies, research, analyses, and make reports and recommendations with respect to subjects or matters within the authority and duties of the chief procurement officer. The chief procurement officer may appoint advisory groups to assist in specific areas, and with respect to any other matters within the authority of the chief procurement officer.

(j) In performing its responsibilities, the council's role shall be strictly advisory, but it may do any of the following:

(1) Make recommendations to the governor, general assembly, fiscal review committee, commissioner of general services, commissioner of finance and administration, and comptroller of the treasury relating to the enactment or promulgation of laws or rules that affect this title and title 12, chapters 3 and 4;

(2) Make recommendations to the commissioner of general services and commissioner of finance and administration regarding the method and form of statistical data collections; and

(3) Monitor the performance of the chief procurement office in the implementation of legislative directives.

(k) The council may develop evaluations, statistical reports, and other information from which the general assembly may evaluate the impact of legislative changes to procurement laws.

(*l*) Whenever any bill is introduced in the general assembly proposing to amend this chapter, to make any change in public procurement or contract law, or to make any change in the law that may have a financial or other substantive impact on the administration of public procurement and contract

law, the standing committee to which the bill is referred may refer the bill to the council. The council's review of bills relating to procurement and contract law shall include, but not be limited to, bills that propose to amend this chapter and title 12, chapters 3 and 4. All bills referred to the council shall be reported back to the standing committee to which they were assigned in a reasonable time. Notwithstanding the absence of a report from the council, the standing committee may consider the bill at any time. The chair making the referral shall immediately notify the prime sponsors of the bill of the referral and the council shall not review and comment on the proposed legislation until the prime sponsors of the bill have been notified. The comments of the council shall describe the potential effects of the proposed legislation on the procurement and contract process and its operations and any other information or suggestions that the council may determine to be helpful for the sponsors, standing committees, or the general assembly. The comments of the council may include recommendations concerning the proposed legislation. Except for reporting the recommendations for or against passage of proposed bill and responding to any inquiries made by the members of the general assembly, council staff shall not lobby or advocate for or against passage of any proposed legislation.

5-5-107. Compensation of members.

(a) The several county legislative bodies are authorized to fix the compensation of their membership in attending sessions of the county legislative body and duly authorized committees thereof.

(b)(1) The counties are hereby classified in accordance with § 8-24-101, and the compensation fixed by the county legislative body for attending sessions of the body shall in no case be less than the applicable amount as follows:

Counties of the third class	$35/day
Counties of the fourth class	$30/day
Counties of the fifth class	$25/day
Counties of the sixth class	$20/day
Counties of the seventh class	$20/day
Counties of the eighth class	$20/day

(2) Upon adoption of a resolution by a two-thirds (⅔) vote of its membership, the county legislative body of any county having a population of not less than two hundred eighty-five thousand (285,000) nor more than two hundred eighty-six thousand (286,000), according to the 1990 federal census or any subsequent federal census, shall fix the salary of the members of the county legislative body by June 30, 1999, to become effective July 1, 1999. On July 1, 2000, and each July 1 thereafter, the compensation for members of the county legislative body shall be adjusted to reflect the same percentage increase the county mayor of such county is to receive.

(c) A county may adopt a resolution to pay members of the legislative body:

(1) An amount greater than the minimum daily compensation for attendance at meetings of the body as provided in subdivision (b)(1), or at committee meetings for which the member is an appointed member;

(2) A base salary; or

(3) A base salary and an amount greater than or equal to the minimum daily compensation for attendance at meetings of the body as provided in subdivision (b)(1), or at committee meetings for which the member is an appointed member. Notwithstanding subsection (d), a county opting to pay members under this subdivision (c)(3) may set the compensation rate for

attendance at committee meetings of the legislative body.

(d) The compensation fixed by the county legislative body for attending duly authorized committee meetings of such body shall be one half (½) of the compensation paid for attending regular sessions of the body.

(e) Any increase in compensation for members of the county legislative body does not take effect until the beginning of the term following the next election of county commissioners after the resolution increasing the compensation is adopted.

5-7-119. County authorized to dispose of real property at nominal cost to certain nonprofit corporations.

Notwithstanding any rule, regulation or other law to the contrary, any county, upon two-thirds (⅔) vote of the county legislative body, may dispose of real property at a nominal cost by private negotiation and sale to a nonprofit corporation, incorporated under the laws of this state, that has received a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501(c)(3), and whose purpose includes providing educational and vocational training services to children and adults with disabilities or whose purpose includes providing educational services to youth in areas, including health, science, agriculture, and civic engagement through in-school and after-school programs, and school and community clubs and camps.

5-12-213. Who may make amendments to the budget — Compliance with court orders.

(a)(1) Amendments to line items within a major category of the budget may be made by the official or department head of the office or department whose budget is to be amended, including those county officials named in § 5-12-211, and by the assessor of property, upon written notice to the county mayor and the county legislative body. Any line item amendment that in any way affects amounts budgeted for personnel costs, however, shall require approval of the county mayor to be effective, or if the county mayor disapproves or fails to take action on the amendment within seven (7) calendar days after written submission of the amendment, the county legislative body may approve the amendment by a two-thirds (⅔) vote.

(2) Amendments to line items within major categories of the budget for departments other than the school department, highway department, the officials named in § 5-12-211 or the assessor may be made with approval of the county mayor and a committee of the county legislative body specifically authorized by law or authorized by the county legislative body to approve such amendments. If no committee is created or the committee disapproves or fails to approve the requested line item amendment within twenty-one (21) days after written submission of the request to the chair of the committee, the amendment may be approved by the county legislative body. However, if amendments to the line items within major appropriation categories of the budget are not approved by the county mayor, or the county mayor fails to take action within seven (7) calendar days after written submission of the amendment to the county mayor, such amendment may be subsequently approved by a two-thirds (⅔) vote of the county legislative body.

(3) When the budget has been adopted, whether by action of the county legislative body or by operation of law, amendments to major categories of

the budget may be made with the approval of the county mayor, or a committee appointed by the county mayor, and passage of the amendment by a majority vote of the county legislative body. If the county mayor, or the committee appointed by the mayor, does not approve the amendments to the major appropriation categories of the budget, or if the county mayor, or the committee appointed by the mayor, fails to take action on the amendment within seven (7) calendar days after written submission of the amendment to the county mayor, such amendment may be subsequently approved by a two-thirds (⅔) vote of the county legislative body. The amendments to major categories of the budget must be submitted in writing to the county mayor and the county legislative body and shall specify the following:

(A) A description of the amendment, including the purpose of the amendment and why it is needed during the current fiscal year;

(B) A statement showing the cost of the amendment by budget line item with subclassifications showing specific cost elements (personnel, salaries, equipment, etc., included in the line item); and

(C) Funding sources for the expenditure itemized by federal sources, state sources, local sources or fund balance.

(b) All amendments to the budget of the school department shall first be approved by the county board of education, and all amendments to the budget of the county highway department shall first be approved by the chief administrative officer of the county highway department.

(c) Notwithstanding, amendments shall be made to comply with any court order entered pursuant to title 8, chapter 20.

7-4-101. Chapter definitions. [Effective until January 1, 2021. See version effective January 1, 2021.]

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

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Convention center" means any land, improvement, structure, building or part of a building comprised of facilities for conventions, public assemblies, conferences, trade exhibitions or other business, social, cultural, scientific and public interest events, along with any associated hotel accommodations; transportation infrastructure; tourism, theatre, retail business and commercial office space facilities; parking facilities or any other structure or facility constructed, leased, equipped, renovated or acquired for any of the purposes set forth in this chapter, and also includes, but is not limited to, parks, greenways, open spaces, roads, streets, highways, curbs, bridges, flood control facilities and utility services, such as water, sanitary sewer, electricity, gas and natural gas and telecommunications that are constructed, leased, equipped, renovated or acquired as a supporting system or facility for any of the purposes set forth in chapter 89 of this title; provided, that any such supporting system or facility is dedicated for public use;

(3) "Counties and municipalities" means the counties having a metropolitan form of government and municipalities with a population of five thousand (5,000) or more, according to the 1980 federal census or any subsequent federal census, located partly within such counties and partly within adjacent counties;

(4) "Hotel" means any structure, or any portion of any structure, that is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days;

(6) "Operator" means the person operating the hotel, whether as owner, lessee or otherwise;

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit;

(8) "Tax collection official" means the department of finance of the county or municipality, as applicable, or the county clerk, if so designated by ordinance of the legislative body of any municipality having a metropolitan form of government and a population of more than four hundred fifty thousand (450,000), according to the 1990 federal census or any subsequent federal census;

(9) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the county tourists, visitors and other interested persons from outside the area and also to encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. "Tourism" also means the acquisition, construction and remodeling of facilities useful in the attraction and promoting of tourist, convention and recreational businesses;

(10) "Tourist commission" means a seven-person body established subject to the same local organic law as other boards and commissions established by the charter of the metropolitan government; and

(11) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) days.

(b) Terms used in this chapter that are not otherwise defined shall have the same meaning ascribed to them in chapter 88 of this title.

7-4-101. Chapter definitions. [Effective January 1, 2021. See version effective until January 1, 2021.]

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

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that

consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Convention center" means any land, improvement, structure, building or part of a building comprised of facilities for conventions, public assemblies, conferences, trade exhibitions or other business, social, cultural, scientific and public interest events, along with any associated hotel accommodations; transportation infrastructure; tourism, theatre, retail business and commercial office space facilities; parking facilities or any other structure or facility constructed, leased, equipped, renovated or acquired for any of the purposes set forth in this chapter, and also includes, but is not limited to, parks, greenways, open spaces, roads, streets, highways, curbs, bridges, flood control facilities and utility services, such as water, sanitary sewer, electricity, gas and natural gas and telecommunications that are constructed, leased, equipped, renovated or acquired as a supporting system or facility for any of the purposes set forth in chapter 89 of this title; provided, that any such supporting system or facility is dedicated for public use;

(3) "Counties and municipalities" means the counties having a metropolitan form of government and municipalities with a population of five thousand (5,000) or more, according to the 1980 federal census or any subsequent federal census, located partly within such counties and partly within adjacent counties;

(4) "Hotel" means any structure, or any portion of any structure, that is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel, short-term rental unit or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days;

(6) "Operator" means the person operating the hotel, whether as owner, lessee or otherwise;

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit;

(8) "Residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

(9) "Short-term rental unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502;

(10) "Short-term rental unit marketplace" means any person or entity that provides a platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant;

(11) "Tax collection official" means the department of finance of the county or municipality, as applicable, or the county clerk, if so designated by

ordinance of the legislative body of any municipality having a metropolitan form of government and a population of more than four hundred fifty thousand (450,000), according to the 1990 federal census or any subsequent federal census;

(12) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the county tourists, visitors and other interested persons from outside the area and also to encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. "Tourism" also means the acquisition, construction and remodeling of facilities useful in the attraction and promoting of tourist, convention and recreational businesses;

(13) "Tourist commission" means a seven-person body established subject to the same local organic law as other boards and commissions established by the charter of the metropolitan government; and

(14) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) days.

(b) Terms used in this chapter that are not otherwise defined shall have the same meaning ascribed to them in chapter 88 of this title.

7-4-103. Tax added to room invoice — Collection and remittance of tax. [Effective until January 1, 2021. See version effective January 1, 2021.]

The tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the operator's hotel, such invoice to be given directly or transmitted to the transient, and the tax shall be collected by the operator from the transient and remitted to the tax collection official.

7-4-103. Tax added to room invoice — Tax on short-term rental unit — Collection and remittance of tax. [Effective January 1, 2021. See version effective until January 1, 2021.]

(a) The tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the operator's hotel, such invoice to be given directly or transmitted to the transient, and the tax shall be collected by the operator from the transient and remitted to the tax collection official.

(b) Notwithstanding this part to the contrary, on or after January 1, 2021, the tax, when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with title 67, chapter 4, part 15.

7-4-202. Additional tax on hotel room occupancy. [Effective until January 1, 2021. See version effective January 1, 2021.]

(a) In addition to any other tax or fee imposed pursuant to this chapter on the occupancy of a hotel room, upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, there is authorized an additional privilege tax of up to two dollars and fifty cents ($2.50) upon the occupancy of each hotel room within the territory of that metropolitan government. The tax so imposed is a privilege tax upon each occupied room for each night of occupancy and is to be collected and distributed

as provided in part 1 of this chapter.

(b) All revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) shall be deposited into a metropolitan government fund entitled "the convention center fund" and shall be used for the purpose of paying costs incurred in modification or construction of a publicly owned convention center in excess of four hundred million dollars ($400,000,000) in costs located within the territory of the metropolitan government. The revenues may also be used for the operation, promotion, management and marketing of such a convention center. If the revenues from the surcharge or tax in any fiscal year exceed the total of the debt service requirements from that year, the surplus revenue thus accruing shall be retained by the metropolitan government as a reserve fund for future convention center debt service requirements.

(c) In the event that the total bonded indebtedness incurred for the modification or construction of the convention center facility by the metropolitan government is paid in full as to bond principal and interest, including expenses of bond sale or sales, the metropolitan government's taxing resolution imposing taxes authorized by subsection (a) shall be repealed and this tax shall no longer be levied; provided, however, that any funds and interest remaining in the reserve fund after all obligations imposed under this part have been fulfilled shall be used by the governmental board or agency responsible for the operation of the convention center for use by it in the operation, promotion and advertisement of the convention center facilities.

(d)(1) Upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, all revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) and that exceed two dollars ($2.00) shall be deposited into a metropolitan government fund entitled the event and marketing fund. For administrative purposes, the event and marketing fund and the committee that approves expenditures shall be attached to a convention and visitors bureau in a county having a metropolitan government or a similar entity approved by the metropolitan council and the metropolitan government mayor. The fund will be governed by a six-person committee and a chair who votes only to break a tie. The committee and the chair shall be appointed by the mayor of the metropolitan government. Members of the committee shall include at least one (1) person nominated by a hotel and lodging association located in the county having a metropolitan government, one (1) person from the hospitality industry, one (1) representative from a hotel corporation that operates a single hotel in a county with a metropolitan government with an excess of two thousand nine hundred (2,900) rooms, two (2) members of the public, one (1) person who owns or operates a business within the central business improvement district, and a chair to be selected by the mayor. Expenditures from the event and marketing fund may be used for any purpose allowable under § 7-4-110(a)(1). All expenditures are subject to the approval of the finance director of the metropolitan government. An audited financial statement shall be supplied annually to the finance director and the council of the metropolitan government.

(2) The authority to charge the amount of the privilege tax imposed on hotel room occupancy by subsection (a) in excess of two dollars ($2.00) and the terms of the committee members shall expire six (6) years from May 21, 2020.

7-4-202. Additional tax on hotel room or short-term rental unit occupancy. [Effective January 1, 2021. See version effective until January 1, 2021.]

(a) In addition to any other tax or fee imposed pursuant to this chapter on the occupancy of a hotel room, upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, there is authorized an additional privilege tax of up to two dollars and fifty cents ($2.50) upon the occupancy of each hotel room within the territory of that metropolitan government. The tax so imposed is a privilege tax upon each occupied room for each night of occupancy and is to be collected and distributed as provided in part 1 of this chapter.

(b) All revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) shall be deposited into a metropolitan government fund entitled "the convention center fund" and shall be used for the purpose of paying costs incurred in modification or construction of a publicly owned convention center in excess of four hundred million dollars ($400,000,000) in costs located within the territory of the metropolitan government. The revenues may also be used for the operation, promotion, management and marketing of such a convention center. If the revenues from the surcharge or tax in any fiscal year exceed the total of the debt service requirements from that year, the surplus revenue thus accruing shall be retained by the metropolitan government as a reserve fund for future convention center debt service requirements.

(c) In the event that the total bonded indebtedness incurred for the modification or construction of the convention center facility by the metropolitan government is paid in full as to bond principal and interest, including expenses of bond sale or sales, the metropolitan government's taxing resolution imposing taxes authorized by subsection (a) shall be repealed and this tax shall no longer be levied; provided, however, that any funds and interest remaining in the reserve fund after all obligations imposed under this part have been fulfilled shall be used by the governmental board or agency responsible for the operation of the convention center for use by it in the operation, promotion and advertisement of the convention center facilities.

(d)(1) Upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, all revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) and that exceed two dollars ($2.00) shall be deposited into a metropolitan government fund entitled the event and marketing fund. For administrative purposes, the event and marketing fund and the committee that approves expenditures shall be attached to a convention and visitors bureau in a county having a metropolitan government or a similar entity approved by the metropolitan council and the metropolitan government mayor. The fund will be governed by a six-person committee and a chair who votes only to break a tie. The committee and the chair shall be appointed by the mayor of the metropolitan government. Members of the committee shall include at least one (1) person nominated by a hotel and lodging association located in the county having a metropolitan government, one (1) person from the hospitality industry, one (1) representative from a hotel corporation that operates a single hotel in a county with a metropolitan government with an excess of two thousand nine hundred (2,900) rooms, two (2) members of the

public, one (1) person who owns or operates a business within the central business improvement district, and a chair to be selected by the mayor. Expenditures from the event and marketing fund may be used for any purpose allowable under § 7-4-110(a)(1). All expenditures are subject to the approval of the finance director of the metropolitan government. An audited financial statement shall be supplied annually to the finance director and the council of the metropolitan government.

(2) The authority to charge the amount of the privilege tax imposed on hotel room occupancy by subsection (a) in excess of two dollars ($2.00) and the terms of the committee members shall expire six (6) years from May 21, 2020.

(e) Notwithstanding this part to the contrary, on or after January 1, 2021, the tax levied pursuant to this section, when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with title 67, chapter 4, part 15.

7-4-206. Minority-owned businesses.

(a) A metropolitan government, in soliciting bids for the construction of a publicly owned convention center in excess of four hundred million dollars ($400,000,000) in costs located within the territory of that metropolitan government, shall actively solicit bids from minority-owned businesses. The metropolitan government shall strive to maximize participation of minority-owned businesses through both prime and second tier business contracting opportunities.

(b)(1) The metropolitan council shall ensure that the funds that are deposited into the convention center fund created pursuant to this part, are expended in a nondiscriminatory manner.

(2) The metropolitan government shall monitor the expenditure of funds from the convention center fund to ensure that all contractors, vendors, suppliers and professional services providers receiving compensation from the fund do not discriminate in hiring, partnering, contracting or subcontracting on the basis of race, religion, ethnic background, or sex.

(3) The metropolitan government shall monitor the results of minority-owned business participation. The metropolitan government shall periodically investigate to ascertain whether minority-owned business participation is being achieved at a level contemplated pursuant to subsection (a) and shall report information to the comptroller of the treasury in the manner prescribed in subdivision (b)(4).

(4) The metropolitan government shall prepare and submit a quarterly report entitled "the convention center compliance report," which shall be submitted to the comptroller of the treasury no later than twenty (20) business days after the end of any calendar quarter in which funds are expended from the convention center fund. The report shall include:

(A) Data on the race, religion, ethnic background and sex of the workforce of each person that receives funds from the convention center fund;

(B) Data on the actual expenditure of funds to minority-owned businesses from the convention center fund; and

(C) Data summarizing the findings of all periodic investigations conducted in accordance with subdivision (b)(3).

(5) [Deleted by 2020 amendment.]

7-34-106. Exemption from utilities regulation.

It is unnecessary for a municipality proceeding under this chapter to obtain a certificate of convenience or necessity, franchise, license, permit, or other authorization from a bureau, board, commission, or other like instrumentality of the state to acquire, construct, purchase, reconstruct, improve, extend, maintain, or operate public works, except as provided in § 68-221-1017.

7-34-115. Operation of utility systems — Disposition of revenue. [Effective until January 1, 2021. See the version effective on January 1, 2021.]

(a)(1) Notwithstanding any other law to the contrary, as a matter of public policy, municipal utility systems shall be operated on sound business principles as self-sufficient entities. User charges, rates and fees shall reflect the actual cost of providing the services rendered. No public works shall operate for gain or profit or as a source of revenue to a governmental entity, but shall operate for the use and benefit of the consumers served by such public works and for the improvement of the health and safety of the inhabitants of the area served. Nothing in this section shall preclude a municipal utility system from operating water and sewer systems as individual or combined entities. Nothing in this section shall preclude a municipal utility system from operating a public works system as a special revenue fund when the governing body of the municipality determines that it is in the best interest of the customers of the public works system and the citizens of the municipality. All water systems and wastewater facilities must utilize an enterprise fund for accounting and reporting its operations. Any water system or wastewater facility currently not operating as an enterprise fund must be doing so by July 1, 2016. To the extent of any conflict between this section and the Wastewater Facilities Act of 1987, compiled in title 68, chapter 221, part 10, the latter statute shall control. Any municipality shall devote all revenues derived from a public works to or for:

(A) The payment of all operating expenses;

(B) Bond interest and retirement or sinking fund payments, or both;

(C) The acquisition and improvement of public works;

(D) Contingencies;

(E) The payment of other obligations incurred in the operation and maintenance of the public works and the furnishing of services;

(F) The redemption and purchase of bonds, in which case such bonds shall be cancelled;

(G) The creation and maintenance of a cash working fund;

(H) The payment of an amount to the general fund of the municipality not to exceed a cumulative return of six percent (6%) per annum of any equity invested from the general fund, if any, of the municipality. Equity investment includes any contributions or purchases made by the municipality from the general fund, including, but not limited to, cash contributions, retirement of debt service and purchases of equipment, so long as these contributions are reflected in the utility's financial statement; provided, that such definition of equity investment shall not change the status under this section of any payments made pursuant to any city charter in existence on or before July 1, 1993; and

(I) If the governing body of the municipality by resolution so requests, payments to the municipality in lieu of ad valorem tax on the property of

the public works within the corporate limits of the municipality not to exceed the amount of taxes payable on privately owned property of similar nature.

(2) Notwithstanding subdivision (a)(1) or any other law to the contrary, if the municipal utility system is a natural gas utility system, the municipal utility board with management responsibility for the municipal utility system or, if there is no such board, the municipal governing body, may also devote revenues derived from the system to funding chambers of commerce and economic and community organizations in accordance with an ordinance or resolution adopted by the governing body of the municipality. A municipal utility system whose revenues are devoted pursuant to this subdivision (a)(2) shall not raise rates on customers to cover contributions targeted for economic development efforts. The authorization provided in this subdivision (a)(2) shall only apply to municipal natural gas utility systems that are located in counties having a population of less than three hundred thirty-six thousand four hundred (336,400) according to the 2010 federal census, and the authorization provided in this subdivision (a)(2) is in addition to such authorization as may be provided to municipal utility systems under otherwise applicable law.

(b) Any surplus remaining, after establishment of proper reserves, if any, shall be devoted solely to the reduction of rates.

(c) In the event a municipality establishes a pension plan for employees of public works, expenditures incident to inaugurating and maintaining such plan shall be deemed an operating expense for purposes of this section.

(d) In computing the equity investment of the municipality, the value of the public works shall be taken as its historical cost. The payment of bonds or the acquisition or improvement of property from the receipts derived from a public works or any other operation of the public works as such shall not be considered to increase the equity investment of the municipality.

(e) Nothing in this section shall be construed to limit the power of the municipality to make contracts with the purchasers of bonds:

(1) As to the use and disposition of the revenues otherwise than as set forth in subsection (a);

(2) As to the order of application of such revenues; or

(3) As to limitations on the amount of payments to the municipality either as a return on the equity investment of the municipality, if any, or as a payment in lieu of taxes.

(f) If a municipality violates this section, it must repay any funds illegally transferred. If the municipality does not have sufficient funds to repay any funds illegally transferred, the municipality is required to submit a plan covering a period not to exceed five (5) years in which to repay the funds. The plan shall be submitted to and approved by the comptroller of the treasury or the comptroller's designee. Upon discovery of such violation through an audit, any city official in violation of this section is subject to ouster under title 8, chapter 47.

(g) Nothing in this section shall preclude a local government from being entitled to receive from a utility the amount of direct and properly allocated and disclosed indirect operating expenses incurred by the municipality on behalf of the utility.

(h) To the extent of any conflict between this section and § 7-39-404, or chapter 52, part 3 of this title, § 7-39-404, or chapter 52, part 3 of this title

shall control.

(i)(1) In addition to the authority granted under otherwise applicable law, a municipality operating a municipal utility system may, acting through the authorization of the board or supervisory body having responsibility for the municipal utility system, accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal utility system pursuant to programs authorized by subdivision (i)(1) are not considered revenue to the municipal utility system, and the municipality may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (i):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes listed in this subdivision (i)(3); and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)(A) A municipal utility system that establishes a program authorized by subdivision (i)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (i)(1) may opt out of the program by providing notice to the utility of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)(A) Any municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis shall send a written notice to each municipal utility system customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt out of participation in the program.

(B) The written notice required by this subdivision (i)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipal utility system.

(C) A municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (i)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (i)(4).

(6) Any municipal utility system that utilizes a program authorized by subdivision (i)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipal utility system's utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

(j)(1) The governing body of a municipal utility system subject to this section that supervises, controls, or operates a public water or public sewer system, including, but not limited to, those systems using a separate utility board pursuant to any public or private act, must meet the training and continuing education requirements in this subsection (j).

(2) All members of the municipal utility board of commissioners shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(3)(A) In each continuing education period after the initial training and continuing education required by subdivision (j)(2), a municipal utility board commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(B) For the purposes of this subsection (j) and subsection (k), "continuing education period" means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (j)(2) and each succeeding three-year period thereafter.

(4) The subjects for the training and continuing education required by this subsection (j) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of a municipal utility.

(5) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must

be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller must be updated every three (3) years and resubmitted to the comptroller for review and approval.

(6) For purposes of this subsection (j), a municipal utility board commissioner may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (j). If the extension is granted, the municipal utility board commissioner must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The municipal utility board commissioner shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(7)(A) Beginning no later than March 1, 2019, the comptroller of the treasury shall offer online training and continuing education courses for purposes of compliance with this subsection (j).

(B) Any association or organization with appropriate knowledge and experience may prepare an online training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use.

(C) The comptroller of the treasury shall file a copy of approved online training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller of the treasury for approval prior to use. Any online training and continuing education curriculum approved by the comptroller of the treasury must be updated every three (3) years and resubmitted to the comptroller of the treasury for review and approval.

(D) Any person required to complete training and continuing education under this subsection (j) may take one (1) or more of such online courses in lieu of attending training and continuing education courses in person.

(E) The online training and continuing education provider shall provide a certificate of completion or attendance that shall be submitted by the municipal utility board commissioner to the municipality. Each municipality shall keep the certificate of completion or attendance for six (6) years after the calendar year in which the certificate of completion or attendance is submitted.

(k) If any member of a municipal utility board of commissioners fails to meet the training and continuing education requirements set forth in subsection (j) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then the water and wastewater financing board shall have full discretion to order reasonable sanctions against the municipality, including, but not limited to, the municipality being ineligible to receive assistance from the Tennessee local development authority under § 68-221-1206(a)(3).

(*l*) Notwithstanding any other law to the contrary, a municipal utility system providing water, sewer, or natural gas service has the power to enter into agreements with companies to provide water, sewer, or natural gas leak protection bill coverage, insurance, or service agreements for customers and to

offer their customers water line, sewer line, or natural gas line damage protection coverage, insurance, or service agreements for customer-owned water, sewer, or natural gas lines. The municipal utility system may include the costs for the coverage, insurance, or service agreements on the monthly utility bills of their customers.

7-34-115. Operation of utility systems — Disposition of revenue. [Effective on January 1, 2021. See the version effective until January 1, 2021.]

(a)(1) Notwithstanding any other law to the contrary, as a matter of public policy, municipal utility systems shall be operated on sound business principles as self-sufficient entities. User charges, rates and fees shall reflect the actual cost of providing the services rendered. No public works shall operate for gain or profit or as a source of revenue to a governmental entity, but shall operate for the use and benefit of the consumers served by such public works and for the improvement of the health and safety of the inhabitants of the area served. Nothing in this section shall preclude a municipal utility system from operating water and sewer systems as individual or combined entities. Nothing in this section shall preclude a municipal utility system from operating a public works system as a special revenue fund when the governing body of the municipality determines that it is in the best interest of the customers of the public works system and the citizens of the municipality. All water systems and wastewater facilities must utilize an enterprise fund for accounting and reporting its operations. Any water system or wastewater facility currently not operating as an enterprise fund must be doing so by July 1, 2016. To the extent of any conflict between this section and the Wastewater Facilities Act of 1987, compiled in title 68, chapter 221, part 10, the latter statute shall control. Any municipality shall devote all revenues derived from a public works to or for:

(A) The payment of all operating expenses;

(B) Bond interest and retirement or sinking fund payments, or both;

(C) The acquisition and improvement of public works;

(D) Contingencies;

(E) The payment of other obligations incurred in the operation and maintenance of the public works and the furnishing of services;

(F) The redemption and purchase of bonds, in which case such bonds shall be cancelled;

(G) The creation and maintenance of a cash working fund;

(H) The payment of an amount to the general fund of the municipality not to exceed a cumulative return of six percent (6%) per annum of any equity invested from the general fund, if any, of the municipality. Equity investment includes any contributions or purchases made by the municipality from the general fund, including, but not limited to, cash contributions, retirement of debt service and purchases of equipment, so long as these contributions are reflected in the utility's financial statement; provided, that such definition of equity investment shall not change the status under this section of any payments made pursuant to any city charter in existence on or before July 1, 1993; and

(I) If the governing body of the municipality by resolution so requests, payments to the municipality in lieu of ad valorem tax on the property of

the public works within the corporate limits of the municipality not to exceed the amount of taxes payable on privately owned property of similar nature.

(2)(A) Notwithstanding subdivision (a)(1) or any other law to the contrary, if the municipal utility system is a natural gas utility system, then the municipal utility board with management responsibility for the municipal utility system or, if there is no such board, the municipal governing body, may also devote revenues derived from the system to funding chambers of commerce and economic and community organizations in accordance with an ordinance or resolution adopted by the governing body of the municipality.

(B) The comptroller of the treasury shall devise standard procedures to assist a municipal utility system whose revenues are devoted pursuant to this subdivision (a)(2) in the disposition of those funds. The municipal utility board with management responsibility for the municipal utility system or, if there is no such board, the municipal governing body, shall devise guidelines directing for what purpose the appropriated money may be spent. These guidelines must provide generally that any funds appropriated must be used to benefit the customers of the municipal utility system. Any funds appropriated under this subdivision (a)(2) must be used and expended under the direction and control of the governing body of a municipality in conjunction with the guidelines and procedures set forth in this subdivision (a)(2)(B).

(C) A municipal utility system, whose revenues are devoted pursuant to this subdivision (a)(2), shall not raise rates on customers to cover contributions targeted for economic development efforts. The authorization in this subdivision (a)(2) only applies to municipal natural gas utility systems that are located in counties having a population of less than three hundred thirty-six thousand four hundred (336,400), according to the 2010 federal census and any subsequent federal census, and the authorization in this subdivision (a)(2) is in addition to any authorization as may be provided to municipal utility systems under otherwise applicable law.

(3) Any chamber of commerce, or economic and community organization, that seeks financial assistance from a municipal utility system pursuant to subdivision (a)(2) shall file with the city clerk a copy of an annual report of its business affairs and transactions that includes, but is not limited to:

(A) Either a copy of the entity's most recently completed annual audit or an annual report detailing all receipts and expenditures relative to the use of funds received from the municipal natural gas utility system in a form prescribed by the comptroller of the treasury and prepared and certified by the chief financial officer of the chamber of commerce or the economic and community organization;

(B) A description of how the financial assistance serves the municipal utility system and its customers; and

(C) The proposed use of the municipal utility system's contributions.

(4) The annual report filed pursuant to subdivision (a)(3) must be open for public inspection during regular business hours at the city clerk's office.

(5) Financial reports must be available to fiscal officers of the municipality and are subject to audit under § 6-56-105.

(6) Appropriations to chambers of commerce, or economic and community organizations, may be made only after notices have been published either on

the website of the municipality, if possible, or in a newspaper of general circulation of the intent to make an appropriation to a chamber of commerce, or economic and community organization, specifying the intended amount of the appropriation and the purposes for which the appropriation will be spent.

(b) Any surplus remaining, after establishment of proper reserves, if any, shall be devoted solely to the reduction of rates.

(c) In the event a municipality establishes a pension plan for employees of public works, expenditures incident to inaugurating and maintaining such plan shall be deemed an operating expense for purposes of this section.

(d) In computing the equity investment of the municipality, the value of the public works shall be taken as its historical cost. The payment of bonds or the acquisition or improvement of property from the receipts derived from a public works or any other operation of the public works as such shall not be considered to increase the equity investment of the municipality.

(e) Nothing in this section shall be construed to limit the power of the municipality to make contracts with the purchasers of bonds:

(1) As to the use and disposition of the revenues otherwise than as set forth in subsection (a);

(2) As to the order of application of such revenues; or

(3) As to limitations on the amount of payments to the municipality either as a return on the equity investment of the municipality, if any, or as a payment in lieu of taxes.

(f) If a municipality violates this section, it must repay any funds illegally transferred. If the municipality does not have sufficient funds to repay any funds illegally transferred, the municipality is required to submit a plan covering a period not to exceed five (5) years in which to repay the funds. The plan shall be submitted to and approved by the comptroller of the treasury or the comptroller's designee. Upon discovery of such violation through an audit, any city official in violation of this section is subject to ouster under title 8, chapter 47.

(g) Nothing in this section shall preclude a local government from being entitled to receive from a utility the amount of direct and properly allocated and disclosed indirect operating expenses incurred by the municipality on behalf of the utility.

(h) To the extent of any conflict between this section and § 7-39-404, or chapter 52, part 3 of this title, § 7-39-404, or chapter 52, part 3 of this title shall control.

(i)(1) In addition to the authority granted under otherwise applicable law, a municipality operating a municipal utility system may, acting through the authorization of the board or supervisory body having responsibility for the municipal utility system, accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal utility system pursuant to programs authorized by subdivision (i)(1) are not considered revenue to the municipal utility system, and the municipality may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (i):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community

deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes listed in this subdivision (i)(3); and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)(A) A municipal utility system that establishes a program authorized by subdivision (i)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (i)(1) may opt out of the program by providing notice to the utility of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)(A) Any municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis shall send a written notice to each municipal utility system customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt out of participation in the program.

(B) The written notice required by this subdivision (i)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipal utility system.

(C) A municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (i)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (i)(4).

(6) Any municipal utility system that utilizes a program authorized by subdivision (i)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipal utility system's utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the

program.

(j)(1) The governing body of a municipal utility system subject to this section that supervises, controls, or operates a public water or public sewer system, including, but not limited to, those systems using a separate utility board pursuant to any public or private act, must meet the training and continuing education requirements in this subsection (j).

(2) All members of the municipal utility board of commissioners shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(3)(A) In each continuing education period after the initial training and continuing education required by subdivision (j)(2), a municipal utility board commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(B) For the purposes of this subsection (j) and subsection (k), "continuing education period" means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (j)(2) and each succeeding three-year period thereafter.

(4) The subjects for the training and continuing education required by this subsection (j) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of a municipal utility.

(5) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller must be updated every three (3) years and resubmitted to the comptroller for review and approval.

(6) For purposes of this subsection (j), a municipal utility board commissioner may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (j). If the extension is granted, the municipal utility board commissioner must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The municipal utility board commissioner shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(7)(A) Beginning no later than March 1, 2019, the comptroller of the treasury shall offer online training and continuing education courses for

purposes of compliance with this subsection (j).

(B) Any association or organization with appropriate knowledge and experience may prepare an online training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use.

(C) The comptroller of the treasury shall file a copy of approved online training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller of the treasury for approval prior to use. Any online training and continuing education curriculum approved by the comptroller of the treasury must be updated every three (3) years and resubmitted to the comptroller of the treasury for review and approval.

(D) Any person required to complete training and continuing education under this subsection (j) may take one (1) or more of such online courses in lieu of attending training and continuing education courses in person.

(E) The online training and continuing education provider shall provide a certificate of completion or attendance that shall be submitted by the municipal utility board commissioner to the municipality. Each municipality shall keep the certificate of completion or attendance for six (6) years after the calendar year in which the certificate of completion or attendance is submitted.

(k) If any member of a municipal utility board of commissioners fails to meet the training and continuing education requirements set forth in subsection (j) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then the water and wastewater financing board shall have full discretion to order reasonable sanctions against the municipality, including, but not limited to, the municipality being ineligible to receive assistance from the Tennessee local development authority under § 68-221-1206(a)(3).

(l) Notwithstanding any other law to the contrary, a municipal utility system providing water, sewer, or natural gas service has the power to enter into agreements with companies to provide water, sewer, or natural gas leak protection bill coverage, insurance, or service agreements for customers and to offer their customers water line, sewer line, or natural gas line damage protection coverage, insurance, or service agreements for customer-owned water, sewer, or natural gas lines. The municipal utility system may include the costs for the coverage, insurance, or service agreements on the monthly utility bills of their customers.

7-35-432. Supplemental to other laws.

This part creates an additional and alternate method for the acquisition of waterworks or a sewerage system by any incorporated city or town and does not include, amend, alter, or repeal any other statute. A proceeding is not required for either the acquisition of a waterworks or sewerage system, or for the issuance of bonds under this part, except as provided by this part or § 68-221-1017, notwithstanding any other law to the contrary.

7-51-201. Law enforcement officers and firefighters — Compensation for injury or death — Certain disabilities presumed to have been suffered in course of employment.

(a)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision of the state that maintains a regular law enforcement department manned by regular and full-time employees and has established or hereafter establishes any form of compensation to be paid to such law enforcement officers for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such law enforcement officers caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed, unless the contrary be shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health that results in death shall be presumed, unless the contrary be shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of such officer's position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in line of duty. Such law enforcement officer shall have successfully passed a physical examination prior to such claimed disability, or upon entering governmental employment and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

(2) For purposes of this subsection (a), "law enforcement officer" includes correctional security job classification employees of the departments of correction and children's services, and full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions. If such inclusion of full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions, in the definition of "law enforcement officer" mandates increased liability to a county under the Tennessee consolidated retirement system, or a local retirement system, then such full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions in such county, shall not be included in such definition for purposes of the Tennessee consolidated retirement system or a local retirement system unless the county legislative body of such county advises the retirement division of its desire to apply such definition to such personnel.

(b)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision of the state maintains a regular fire department manned by regular and full-time employees and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to such firefighters for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such firefighters caused by disease of the lungs, hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed, unless the contrary is shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impair-

ment of health which results in death shall be presumed, unless the contrary is shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of such firefighter's position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Such firefighter shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon governmental employment, and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any municipal corporation maintaining any permanent fire department to be covered by its provisions.

(c)(1) Whenever any county having a population greater than four hundred thousand (400,000), according to the 1980 federal census or any subsequent federal census, or any municipal corporation within such county, maintains within its fire department, and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to a person employed by such division as an emergency medical technician or emergency medical technician advanced or paramedic, for any condition or impairment of health that shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such person caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability shall be presumed, unless the contrary is shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed, unless the contrary is shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of the position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Such person shall have successfully passed a physical examination prior to such claimed disability, or upon entering governmental employment, and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any such municipal corporation or political subdivision of the state maintaining such division to be covered by its provisions.

(d)(1) Whenever this state, any municipal corporation, or other political subdivision of the state that maintains a fire department has established or establishes any form of compensation to be paid to firefighters for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there is a presumption that any condition or impairment of health of firefighters caused by all forms of Non-Hodgkin's Lymphoma cancer, colon cancer, skin cancer, or multiple myeloma cancer resulting in hospitalization, medical treatment, or any disability, has arisen out of employment, unless the contrary is shown by competent medical evidence. Any such condition or impairment of health

that results in death is presumed to be a loss of life in the line of duty, to have arisen out of employment, and to have been in the actual discharge of the duties of the firefighter's position, unless the contrary is shown by a physician board certified in oncology. Secondary employment or lifestyle habits may be considered when determining whether the presumption established in this subsection (d) applies.

(2)(A) Any firefighter desiring to utilize the presumption established in this subsection (d), must obtain a physical medical examination after July 1, 2019, and the examination must include a cancer screening that fails to reveal any evidence of the cancers listed in this subsection (d).

(B) In order to be eligible to utilize the presumption established in this subsection (d), a firefighter shall obtain annual physical medical examinations that include cancer screenings for the specific types of cancer listed in this subsection (d).

(C) Any physical medical examination required by this subsection (d) shall be paid by the employer's health benefits plan at no cost to the employee.

(3) In order to be eligible to utilize the presumption established in this subsection (d), a firefighter must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances, while performing the duties of a firefighter in the firefighter's capacity as an employee and must have completed five (5) or more consecutive years in service with an eligible fire department. A firefighter may utilize the presumption established in this subsection (d) for up to five (5) years after the firefighter's most recent date of exposure as contemplated herein.

(4) As used in this subsection (d):

(A) "Fire department" means a department recognized by the state fire marshal's office pursuant to the Fire Department Recognition Act, compiled in title 68, chapter 102, part 3, and manned by full-time, paid employees; and

(B) "Firefighter" means any full-time, paid employee of a fire department of the state or a political subdivision of the state.

(5) This subsection (d) does not affect a person's rights under § 7-51-205 and does not limit any benefit in effect in the state.

7-51-210. Compensation for death of emergency responder in line of duty.

(a) For the purposes of this section, unless the context otherwise requires:

(1) "Emergency medical technician" means an emergency medical technician advanced and paramedic;

(2) "Emergency responder" means a firefighter, emergency medical technician, a volunteer rescue squad worker, or law enforcement officer;

(3) "Firefighter" means any regular or full-time employee of a fire department as defined in § 68-102-302, or any unpaid volunteer member of a municipal or nonprofit fire department who is registered and recognized by the state fire marshal and who is required to extinguish and control fires or fire-related incidents;

(4) "In the line of duty" means in the course of employment and in the actual discharge of the duties of the position;

(5) "Law enforcement officer" means the sheriff, sheriff's deputies, or any police officer employed, commissioned, or appointed by this state, a municipality, or political subdivision of this state whose primary responsibility is the prevention and detection of crime and the apprehension of offenders; and

(6) "Volunteer rescue squad worker" means any person who is trained in emergency and rescue work and who performs such work without compensation in a unit that is equipped to address such situations.

(b) The estate of any emergency responder who is killed in the line of duty shall be entitled to receive a two-hundred-fifty-thousand-dollar annuity, with the estate receiving an annual installment of fifty thousand dollars ($50,000) for five (5) years. The emergency responder must have been current in any required training and physical exams at the time the death occurred for the estate to receive the payment. Payment shall be made from the general fund after receipt by the department of finance and administration of a certified death certificate, letters testamentary or letters of administration for the estate of the deceased from a probate court, and an affidavit from the decedent's employer or volunteer unit that the decedent was killed in the line of duty.

(c) A claim for payment of an annuity pursuant to this section must be filed with the department of finance and administration no later than three (3) years after the date of death of the decedent.

(d) A person's estate is only entitled to receive one (1) two-hundred-fifty-thousand-dollar annuity, regardless of the person being in more than one (1) category of emergency responder.

(e) A denial of a claim made under this section by the estate of a law enforcement officer shall be subject to review by the Tennessee peace officer standards and training commission within ninety (90) days of the denial. The commission has the authority to review the claim and issue a final order which is binding upon this state. The commission shall cause copies of the final order to be delivered to the claimant's estate and the department of finance and administration.

7-51-2101. Part definitions.

As used in this part:

(1) "Policy" means an ordinance, resolution, regulation, code, or any other requirement imposed by a political subdivision of this state; and

(2) "Political subdivision" means a municipality; public corporation; body politic; authority; district; metropolitan government; county; agency, department, or board of the aforementioned entities; or any other form of local government.

7-51-2102. Prohibited policies.

(a) A political subdivision of this state shall not adopt a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of a utility service based upon the type or source of energy to be delivered to an individual customer.

(b) This section does not limit the ability of a political subdivision:

(1) To choose utility services for properties owned by the political subdivision; or

(2) To comply with the terms and conditions of a contract between the political subdivision and the Tennessee Valley authority.

7-51-2103. Conflict with federal law.

If this part conflicts with federal law requirements pertaining to the connection or reconnection of a utility service based upon the type or source of energy to be delivered to an individual customer, then the federal law controls.

7-53-302. Corporate powers — Meetings public.

(a) The corporation has the following powers, together with all powers incidental to such powers or necessary for the performance of those powers, to:

(1) Have succession by its corporate name for the period specified in the certificate of incorporation, unless sooner dissolved;

(2) Sue and be sued and prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(3) Have and use a corporate seal and alter the corporate seal at pleasure;

(4) Acquire, whether by purchase, exchange, gift, lease, or otherwise, and improve, maintain, equip and furnish one (1) or more projects, including all real and personal properties the board of directors of the corporation may deem necessary in connection with the projects and regardless of whether or not any such projects shall then be in existence; provided, that no hotel, motel or apartment building shall be purchased or otherwise acquired by a corporation under this subdivision (a)(4) after July 1, 1988, except that this proviso shall not affect the development or financing of any project that is located in a center city area or in a central business improvement district and that involves an apartment or residential building, hotel, motel or of any project acquired prior to July 1, 1988, regardless of when such project is completed, nor shall this proviso be construed to impair, limit, abrogate or modify the contractual rights and obligations that any such corporation assumes with the issuance of any bonds, notes or other forms of indebtedness or any other contract, nor shall this proviso apply to any hotel listed in the National Register of Historic Places acquired by the corporation prior to December 31, 1989, nor shall this proviso apply to any hotel that contains conference or convention center facilities containing at least seventy-five thousand square feet (75,000 sq. ft.), nor shall this proviso apply to any hotel or hotels, and related conference, mixed use or convention center facilities, if any, constructed in connection with a project or series of related projects involving an aggregate investment of public and private funds in excess of two hundred million dollars ($200,000,000), nor shall this proviso apply to any project located in a county having a population greater than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census, nor shall this proviso apply to any project described in § 7-53-101(15)(E);

(5) Lease to others one (1) or more projects and charge and collect rent for the projects and terminate any such lease upon the failure of the lessee to comply with any of the obligations of such lease; and include in any such lease, if desired, a provision that the lessee of the projects shall have options to purchase any or all of its projects or that upon payment of all of the indebtedness of the corporation it may lease or convey any or all of its projects to the lessee of the projects with or without consideration, and to enter into amendments to such leases, which amendments, among other things, may provide for extending the terms of such leases, amending or extending any payments in lieu of taxes due under the leases, subject to any applicable limitations provided in § 7-53-305(b), and amending or extending

any rents or other payments due under the leases;

(6) Sell to others one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable, in accordance with sale contracts entered into pursuant to this chapter;

(7) Enter into loan agreements with others with respect to one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable, in accordance with this chapter;

(8) Sell, exchange, donate and convey any or all of its properties, including, without limitation, all or any part of the rents, revenues and receipts of the corporation from its projects, whenever its board of directors shall find any such action to be in furtherance of the purposes for which the corporation was organized;

(9) Issue its bonds, and otherwise borrow money from banks or other financial institutions by issuing its notes for the purpose of carrying out any of its powers;

(10) Borrow money from a municipality through a loan agreement executed with a municipality for the purpose of carrying out any of its powers;

(11) As security for the payment of the principal of and interest on any bonds or notes so issued and any agreements made in connection with the bonds or notes, or to secure any indebtedness or obligations of any lessee of the corporation, mortgage and pledge any or all of its projects or any part or parts of the projects, whether then owned or thereafter acquired, and pledge the revenues and receipts from any projects, or assign and pledge all or any part of its interest in and rights under the leases, sale contracts or loan agreements relating to the projects, including, without limitation, the pledging and/or assignment and pledging of all or any part of the rents, revenues and receipts of any project as security for payment of any bonds or notes of the corporation issued with respect to the project, or any other project or projects of the corporation and any agreements made in connection with the projects, or procure or pledge municipal bond insurance, letters of credit, lines of credit or other liquidity facilities as additional security and liquidity for the bonds or notes;

(12) Employ and pay compensation to such employees and agents, including attorneys, as the board of directors shall deem necessary for the business of the corporation; and

(13) Exercise all powers expressly given in its certificate of incorporation and establish bylaws and make all rules and regulations not inconsistent with the certificate of incorporation or this chapter, deemed expedient for the management of the corporation's affairs.

(b) The corporation does not have the power to operate any project financed under this chapter as a business or in any manner except as specifically provided in this chapter, nor does it have the power to pledge at any time or in any manner the general credit or taxing power of the municipality except as provided in § 7-53-306.

(c) Any meeting held by the board of directors for any purpose whatsoever shall be open to the public.

(d) In addition to the powers specified in subsection (a) and upon the adoption of a resolution of the county legislative body, a corporation in any county having a population of over nine hundred thousand (900,000), accord-

ing to the 2010 federal census or any subsequent federal census:

(1) Has the following powers, together with all powers incidental to such powers or necessary for the performance of those powers, to:

(A) Enter into loan agreements with others with respect to one (1) or more projects or for activities, costs, debt restructuring or working capital associated with projects for such payments or deferrals and upon such terms and conditions as the board of directors of the corporation may deem advisable in accordance with this chapter; and

(B) Sell, exchange, donate, forgive debt, grant and convey any or all of its assets or properties, including, without limitation, all or any part of the rents, revenues and receipts of the corporation from its projects, whenever its board of directors shall find any such action to be in furtherance of the purposes for which the corporation was organized; and

(2) Shall not enter into a loan agreement, accept a note or issue any indebtedness, or otherwise provide financing for working capital that:

(A) Exceeds two hundred fifty thousand dollars ($250,000) in principal amount to any project or borrower; or

(B) Provides for a term in excess of five (5) years, including any renewals or extensions of such financing.

7-82-308. Compensation of commissioners — Delegation of powers — Officers — Records — Qualifications — Meetings.

(a)(1) The members of the board shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year, at rates not greater than three hundred dollars ($300) per meeting. However, in any county with a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census, the members of the utility district board of commissioners shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year at rates not greater than two hundred fifty dollars ($250) per meeting for each district having more than three thousand (3,000) users and not more than one hundred dollars ($100) per meeting for each district having three thousand (3,000) or fewer users. In addition, group medical insurance coverage and group life insurance coverage as may be provided other employees, or payment of premiums for an equivalent or similar group medical coverage and group life insurance coverage that a commissioner may be participating in on April 18, 1985, or that a commissioner may have been participating in on May 25, 1984, or a group plan entered into subsequent thereto; provided, that such payment of such medical coverage and group life insurance coverage does not exceed the per person cost of the district's group medical insurance coverage and group life insurance coverage for its employees. Commissioners in those districts that are not financially distressed utility districts as defined in § 7-82-401(g) that distribute and sell natural gas are thereby authorized, upon resolution duly adopted by the board of commissioners, to receive not more than five hundred dollars ($500) per diem

payments in the manner provided in this part.

(2) [Deleted by 2020 amendment.]

(3) In any county having a charter form of government, the members of a utility district board of commissioners shall serve without compensation for their services, except that, by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year, at rates not greater than three hundred fifty dollars ($350) per meeting for each district having more than five thousand (5,000) users, and not more than one hundred dollars ($100) per meeting for each district having five thousand (5,000) or fewer users. In addition, group medical insurance coverage and group life insurance coverage may be provided for commissioners as such coverage is provided for other employees, or premiums for an equivalent or similar group medical coverage and group life insurance may be paid; however, payment of such medical coverage and group life insurance coverage must not exceed the per person cost of the district's group medical insurance coverage and group life insurance coverage for its employees.

(A)(i) In any county having a population of not less than one hundred forty thousand (140,000) nor more than one hundred forty-five thousand (145,000), according to the 1990 federal census or any subsequent federal census, the members of a utility district board of commissioners shall serve without compensation for their services, except that, by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year, at rates not greater than two hundred fifty dollars ($250) per meeting.

(ii) In addition, group medical insurance coverage and group life insurance coverage may be provided for commissioners as such coverage is provided for other employees, or premiums for an equivalent or similar group medical coverage and group life insurance may be paid; however, payment of such medical coverage and group life insurance coverage must not exceed the per person cost of the district's group medical insurance coverage and group life insurance coverage for its employees.

(B) Any resolution adopted, pursuant to subdivision (a)(3)(A)(i), on or after July 1, 2001, shall not take effect unless and until it is ratified by a majority of the customers of the utility district as provided in this subdivision (a)(3)(B). Upon adopting any such resolution, the board must promptly schedule a meeting of the district's customers for an election of ratification. Such election of ratification must coincide with the next succeeding meeting at which one (1) or more persons shall be elected or selected to serve on the utility district board of commissioners. At least thirty (30) days prior to the date of such meeting, the board must mail written notice to all customers of the utility district announcing the time, place and purposes of such meeting. If a majority of the customers present and voting at the meeting favor ratification of the resolution, then the resolution shall immediately take effect.

(4) Notwithstanding this section or any other law to the contrary, in any county having a population of not less than seventeen thousand eight hundred (17,800) nor more than seventeen thousand eight hundred seventy-

five (17,875), or in any county having a population of not less than twenty thousand six hundred (20,600) nor more than twenty thousand seven hundred (20,700), according to the 2000 federal census or any subsequent federal census, the members of a utility district board of commissioners shall serve without compensation for their services, except that, by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year, at rates not greater than two hundred fifty dollars ($250) per meeting.

(5) Notwithstanding this section or any other law to the contrary, the members of the utility district board of commissioners in a census designated place that is the county seat of any county having a population of not less than one hundred fifty-six thousand eight hundred (156,800) nor more than one hundred fifty-six thousand nine hundred (156,900), according to the 2010 federal census or any subsequent federal census, shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year, at rates not greater than three hundred fifty dollars ($350) per meeting.

(b) The board may delegate to one (1) or more of its members, or to its agents and employees, such powers and duties as it may deem proper, but, at its first meeting and at the first meeting of each calendar year thereafter, it shall elect one (1) of its members to serve as president, and another of its members as secretary of the board of commissioners.

(c) The secretary shall keep a record of all proceedings of the commission, which shall be available for inspection as other public records, and shall be custodian of all official records of the district.

(d) Only persons who reside within the district's boundaries or who are customers of the district shall be eligible for appointment or election to the board. As used in this subsection (d), "customer" means a person who is regularly billed and pays for a utility service rendered by the district.

(e) The board of commissioners of every utility district created pursuant to this chapter shall meet at least once each quarter, the time and place of such meeting to be published in accordance with title 8, chapter 44.

(f)(1) Within one (1) year of initial appointment or election to the board of commissioners of a utility district or prior to or within one (1) year of the reappointment or reelection to the board of commissioners of an incumbent utility district commissioner holding office on June 30, 2010, a utility district commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(6). An incumbent utility district commissioner holding office on June 30, 2010, who has received a minimum of twelve (12) hours of training or more in one (1) or more courses addressing subjects identified in subdivision (f)(6) within the past three (3) years may submit a request to the comptroller to be exempt from the training and continuing education requirements set forth in this subdivision (f)(1).

(2) In each continuing education period after the initial training and continuing education required by subdivision (f)(1), a utility district commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision

(f)(6). For the purposes of this subdivision (f)(2), a "continuing education period" is a period of three (3) years beginning January 1 after the calendar year in which a utility district commissioner completes the training and continuing education requirements set forth in subdivision (f)(1) and each succeeding three-year period thereafter.

(3) For purposes of subdivisions (f)(1) and (2), a utility district commissioner may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. The request shall only be granted upon a reasonable showing of substantial compliance with subdivisions (f)(1) and (2). If the extension is granted, the utility district commissioner must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The utility district commissioner shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the utility management review board. The failure to file this information with the utility management review board shall cause a commissioner to be ineligible to receive any further payment or benefit as provided in subsection (a) until the information is properly filed.

(4) Each utility district commissioner shall certify by January 31 of each year the training and continuing education courses attended during the prior calendar year by filing an annual written statement with the utility district on a form developed by the comptroller. Each annual statement shall identify the date of each course attended, its subject matter, location, sponsor, and the hours attended for each course and shall include a certificate of attendance for each course listed on the annual statement. Each utility district commissioner shall be responsible for obtaining a certificate of attendance certifying that the utility district commissioner attended the course, on a form acceptable to the comptroller. The failure to file the annual statement shall cause a commissioner to be ineligible to receive any further payment or benefit as provided in subsection (a) until the annual written statement is filed. Each utility district shall keep for six (6) years after the calendar year in which each annual statement is filed a copy of the annual statements of attendance filed by members of the board of commissioners of the utility district.

(5) The utility district shall be responsible for paying the training and continuing education course registration and travel expenses for the training and continuing education required by this subsection (f) for the members of the utility district's board of commissioners.

(6) The subjects for the training and continuing education required by subdivisions (f)(1) and (2) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities and other topics reasonably related to the duties of the members of the board of commissioners of a utility district.

(7) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for utility district commissioners covering the subjects set forth in subdivision (f)(6) to be submitted to the comptroller for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the utility management review board. Changes and updates to the curriculum shall be submitted to the comptroller for

approval prior to use. Any training and continuing education curriculum approved by the comptroller shall be updated every three (3) years and resubmitted to the comptroller for review and approval.

(8) Nothing in this subsection (f) shall prohibit the utility management review board from requiring training and continuing education in addition to that required under this subsection (f) for utility district commissioners of a utility district which is financially distressed under § 7-82-703.

(9) As used in this subsection (f), "utility district commissioners" include the members of the governing board of any utility district created pursuant to this chapter or any public or private act and the members of the governing board of any water or sewer authority created by any public or private act.

(g) [Deleted by 2020 ch. 627 amendment.]

(h) [Deleted by 2020 ch. 627 amendment.]

7-82-314. Annual report.

Each utility district under the jurisdiction of the utility management review board pursuant to § 7-82-701(a) shall submit to the board by the first day of the utility district's fiscal year an annual report on a form approved by the board. If a utility district fails to submit the annual report in accordance with this section, then the utility management review board may order reasonable sanctions against the utility district.

7-82-709. Authority of board to investigate compliance with federal and state law.

(a) Notwithstanding any law to the contrary, the utility management review board has the authority to investigate utility districts under its jurisdiction pursuant to § 7-82-701(a), and may include the assistance of the department of environment and conservation and the comptroller of the treasury; determine the financial, technical, and managerial capacity of the systems to comply with the requirements of any applicable federal and state acts; and require systems to take appropriate action to correct any deficiencies in such areas, including, but not limited to, changes in ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures.

(b) The utility management review board shall have the authority to investigate public water systems of utility districts whose water loss as reported in the utility district's annual audit is excessive as established by rules determined by the board. In the event a utility district fails to take the appropriate actions required by the board to reduce water loss to an acceptable level, the utility management review board may petition the chancery court in a jurisdiction in which the utility district is operating to require the utility district to take such actions.

7-84-511. Establishment of district by petition or resolution — Statement of intent — Effect of failure to collect requisite number of signatures.

(a) The establishment of a district shall be initiated in either of two (2) ways, as follows:

(1) By a petition filed in the office of the clerk of the governing body of the municipality, signed by not less than a majority in number of the owners of

real property in the district having an assessed value of not less than two thirds (⅔) of the assessed value of all the real property proposed to be included in the district. After the filing of the petition, no petitioner shall be permitted to withdraw the petitioner's name from the petition. No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions for the organization of the same district may be filed, and together shall be regarded as one (1) petition with the original. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file. The initiating petition shall set forth:

(A) The name of the proposed district, which shall include the name of the municipality in which the district is to be located, together with the words, "Central Business Improvement District";

(B) A general description of the boundaries of the district or the territory to be included in the district, identified with sufficient certainty to enable any and all owners to determine whether their property lies within the district;

(C) A general description of the improvements, services, projects proposed for the district, and other proposed uses of special assessment revenues within the district;

(D) The total estimated costs of the proposed improvements, services, projects and other proposed uses and the estimated rate of levy of the special assessment, with a proposed breakdown by property classification if such classification is to be used;

(E) A statement that the petition is filed pursuant to the terms of this part; and

(F) A request that a district be established pursuant to this part and that the administration of the district be governed by this part; or

(2) By adoption of a resolution by the governing body setting forth the same matters as are required to be set forth in the initiating petition.

(b) Before beginning to collect signatures for the petition pursuant to subdivision (a)(1), the proponent of the petition shall file a statement of intent with the governing body of the municipality. From the date the statement of intent is filed, the proponent has one (1) year to file the petition containing the requisite number of signatures. During that one-year period, the governing body shall not adopt any resolution pursuant to subdivision (a)(2).

(c) If the one-year period expires without a petition with the requisite number of signatures being filed with the governing body, then no other petition may be filed pursuant to subdivision (a)(1), and no resolution may be adopted pursuant to subdivision (a)(2), for a period of one (1) year.

7-84-519. District management corporation.

(a) The governing body of the municipality, in the establishment ordinance or any other ordinance of the municipality, may create an advisory board, or appoint an existing organization, to act as an advisory board for the purpose of making recommendations for the use of special assessment revenues and for the purpose of administering activities within and for the district, the making of improvements within and for the district, and the provision of services and

projects within and for the district.

(b) Such newly created board or existing organization so created or appointed shall be known and referred to in this part as the district management corporation.

(c) The governing body may contract with the district management corporation for the services to be provided by such corporation. Such district management corporation must comply with all applicable law, including this part, with all city resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

(d)(1) The speaker of the senate shall appoint the senator whose senate district includes the majority of the area contained within the central business improvement district to serve as an ex officio member on the board of directors of the district management corporation created pursuant to this section. Likewise, the speaker of the house of representatives shall appoint the representative whose house of representatives district includes the majority of the area contained within the central business improvement district to also serve as an ex officio member on the board of directors.

(2) Alternatively, in any county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, the speaker of the senate shall appoint as an ex officio member of the board of directors one (1) senator whose senatorial district lies in whole or in significant part within the boundaries of the center city revenue finance corporation, as the boundaries existed on January 1, 1999; and the speaker of the house of representatives shall appoint as an ex officio member of the board of directors one (1) representative whose representative district lies in whole or in significant part within the boundaries of the corporation, as the boundaries existed on January 1, 1999.

(3) A senator or representative appointed pursuant to this subsection (d) may decline the appointment or appoint a designee to serve in the place of the senator or representative. If an appointment is declined, the vacant seat is not counted for purposes of voting or quorum. The vacant seat remains vacant until a new senator or representative is elected and that person accepts the appointment. If a designee is appointed, the person appointed must be a resident of the district of the senator or representative making the appointment.

(e) The district management corporation shall submit an annual budget for review and approval by the governing body. This budget shall include a statement of the improvements to be made, the services to be provided and the projects and activities to be conducted during the ensuing fiscal year, the proposed program budget, and a statement of the assessment rates for financing the proposed budget.

7-84-611. Establishment of district by petition or resolution -- Statement of intent --Effect of failure to collect requisite number of signatures.

(a) The establishment of a district shall be initiated in either of two (2) ways, as follows:

(1) By a petition filed in the office of the clerk of the governing body of the municipality, signed by not less than a majority of the owners of real property in the district having an assessed value of not less than two thirds

(⅔) of the assessed value of all the real property proposed to be included in the district. After the filing of the petition, no petitioner shall be permitted to withdraw the petitioner's name from the petition. No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions for the organization of the same district may be filed, and together shall be regarded as one (1) petition with the original. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file. The initiating petition shall set forth:

(A) The name of the proposed district, which shall include the name of the municipality in which the district is to be located, together with the words, "Inner-City Redevelopment District";

(B) A general description of the boundaries of the district or the territory to be included in the district, identified with sufficient certainty to enable any and all owners to determine whether their property lies within the district;

(C) A general description of the improvements, services, projects proposed for the district and other proposed uses of special assessment revenues within the district;

(D) The total estimated costs of the proposed improvements, services, projects and other proposed uses and the estimated rate of levy of the special assessment with a proposed breakdown by property classification if such classification is to be used;

(E) A statement that the petition is filed pursuant to the terms of this part; and

(F) A request that a district be established pursuant to this part and that the administration of the district be governed by this part; or

(2) By adoption of a resolution of the governing body setting forth the same matters as are required to be set forth in the initiating petition.

(b) Before beginning to collect signatures for the petition pursuant to subdivision (a)(1), the proponent of the petition shall file a statement of intent with the governing body of the municipality. From the date the statement of intent is filed, the proponent has one (1) year to file the petition containing the requisite number of signatures. During that one-year period, the governing body shall not adopt any resolution pursuant to subdivision (a)(2).

(c) If the one-year period expires without a petition with the requisite number of signatures being filed with the governing body, then no other petition may be filed pursuant to subdivision (a)(1), and no resolution may be adopted pursuant to subdivision (a)(2), for a period of one (1) year.

7-84-619. District management corporation.

(a) The governing body of the municipality, in the establishment ordinance or any other ordinance of the municipality, may create an advisory board or appoint an existing organization to act as an advisory board for the purpose of making recommendations for the use of special assessment revenues and for the purpose of administering activities within and for the district, the making of improvements within and for the district and the provision of services and

projects within and for the district.

(b) Such newly created board or existing organization so created or appointed shall be known and referred to in this part as the district management corporation.

(c) The governing body may contract with the district management corporation for the services to be provided by such corporation. Such district management corporation must comply with all applicable provisions of law, including this part, with all city resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

(d)(1) The speaker of the senate shall appoint the senator whose senate district includes the majority of the area contained within the inner-city redevelopment district to serve as an ex officio member on the board of directors of the district management corporation created pursuant to this section. Likewise, the speaker of the house of representatives shall appoint the representative whose house of representatives district includes the majority of the area contained within the inner-city redevelopment district to also serve as an ex officio member on such board of directors.

(2) Alternatively, in any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, the speaker of the senate shall appoint as an ex officio member of the board of directors one (1) senator whose senatorial district lies in whole or in significant part within the boundaries of the center city revenue finance corporation, and the speaker of the house of representatives shall appoint as an ex officio member of the board of directors one (1) representative whose representative district lies in whole or in significant part within the boundaries of the corporation.

(3) A senator or representative appointed pursuant to this subsection (d) may decline the appointment or appoint a designee to serve in the place of the senator or representative. If an appointment is declined, the vacant seat is not counted for purposes of voting or quorum. The vacant seat remains vacant until a new senator or representative is elected and that person accepts the appointment. If a designee is appointed, the person appointed must be a resident of the district of the senator or representative making the appointment.

(e) The district management corporation shall submit an annual budget for review and approval by the governing body. This budget shall include a statement of the improvements to be made, the services to be provided and the projects and activities to be conducted during the ensuing fiscal year, the proposed program budget and a statement of the assessment rates for financing the proposed budget.

7-86-205. Requirements for public safety dispatchers. [Effective on January 1, 2021. See the version effective until January 1, 2021.]

(a)(1) Regardless of agency or governmental jurisdiction, each emergency call taker or public safety dispatcher who receives an initial or transferred 911 call from the public is subject to the training and course of study requirements established by the emergency communications board created pursuant to § 7-86-302.

(2)(A) The training and course of study requirements established pursuant to subdivision (a)(1) must include high-quality, nationally recognized,

evidence-based emergency cardiovascular care guidelines for T-CPR.

(B) At a minimum, the training and course of study requirements must incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA), compression-only cardiopulmonary resuscitation (CPR) instructions for callers or bystanders, and continuous education as appropriate.

(C) Emergency call takers and public safety dispatchers who provide dispatch for emergency conditions shall offer T-CPR to a caller or bystander, when deemed necessary.

(D) The emergency communications board shall, by rule, establish a procedure for monitoring emergency call taker and public safety dispatcher adherence to T-CPR training requirements and conduct ongoing quality assurance. The emergency communication board may adjust grants or shared revenue amounts based on failure to comply with the requirements.

(E) As used in this subdivision (a)(2), "T-CPR" means telecommunicator cardiopulmonary resuscitation, which is the dispatcher-assisted delivery of cardiopulmonary resuscitation (CPR) instruction by trained emergency call takers or public safety dispatchers to callers or bystanders for events requiring CPR, such as out-of-hospital cardiac arrest (OHCA).

(b)(1) The emergency communications board established by § 7-86-302 is the sole authority to implement this section and may determine whether to grant an exception to or to waive the requirements of subdivisions (d)(4) and (5), to the extent authorized pursuant to subdivision (b)(2), for an emergency call taker or public safety dispatcher at the request of a majority of the membership of a board of directors of an emergency communications district. No person may be employed as an emergency call taker or public safety dispatcher, who requires a waiver under this section, until such waiver is granted. The board may establish an advisory committee to hear and review requests for exceptions and waivers, and make recommendations to the board on whether to grant or deny the requests. The meetings of the committee shall be open to the public, recorded and the recording open to public inspection. Any party adversely affected may, within sixty (60) days of the board's decision, initiate a contested case as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, which shall be heard by an administrative law judge sitting alone.

(2) The board may grant a waiver of pre-employment requirements under the following circumstances:

*(A) **Military History.** The board may waive pre-employment requirements relating to the military history for the following separations from military service:*

(i) An entry level separation; or

(ii) A general discharge under honorable conditions.

*(B)(i) **Criminal Activity.** The board may consider a waiver from pre-employment requirements relating to criminal activity if the person has been convicted of or pleaded guilty to or entered a plea of **nolo contendere** to any violation of any federal or state law or city ordinance with the following charges:*

***(a)** Relating to force, violence, theft, dishonesty, gambling, liquor (including driving while intoxicated) if such violation is a misdemeanor and is not classified as a domestic violence offense; or*

***(b)** Controlled substances or controlled substance analogues when the offense was classed as a misdemeanor.*

(ii) The employing agency requesting waiver must present a copy of the final court disposition of the case.

(C) ***Expunction of Charges.*** *The board may consider a waiver from pre-employment requirements relating to expunction of misdemeanor charges, except for charges classified as a domestic violence offense, on an individual basis and depending on the circumstances. It is the responsibility of the requesting agency to present information and court documentation relating to the expunction to the board.*

(c) Except as provided in subsection (e), beginning July 1, 2006, all emergency call takers or public safety dispatchers subject to this section shall have successfully completed a course of study approved by the emergency communications board created pursuant to § 7-86-302.

(d) Except as provided in subsection (f), in addition to the requirements of subsection (c), any such person shall:

(1) Be at least eighteen (18) years of age;

(2) Be a citizen of the United States;

(3) Be a high school graduate or possess equivalency;

(4) Not have been convicted or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor, controlled substances or controlled substance analogues;

(5) Not have been released or discharged under other than an honorable or medical discharge from any of the armed forces of the United States;

(6) Have such person's fingerprints on file with the Tennessee bureau of investigation;

(7) Have passed a physical examination by a licensed physician; and

(8) Have a good moral character as determined by a thorough investigation conducted by the employing agency.

(e) All emergency call takers and public safety dispatchers subject to this section employed after July 1, 2006, shall have six (6) months from the date of their employment to comply with this section.

(f) Notwithstanding other law to the contrary, the law in effect prior to May 1, 1994, relative to public safety dispatchers shall apply to any person who had more than five (5) years of continuous employment as a public safety dispatcher on May 1, 1994.

7-88-106. Apportionment and distribution of incremental increases due to public use facility.

(a)(1) If a municipality or public authority has financed, constructed, leased, equipped, renovated or acquired a qualified public use facility within a tourism development zone, then state and local sales and use taxes shall be apportioned and distributed to the municipality in an amount equal to the incremental increase in state and local sales and use tax revenue derived from the sale of goods, products and services within the tourism development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax; provided, however, that, with respect to any facility that elects to qualify as a qualified public use facility under § 7-88-103(7)(A)(ii) or (7)(A)(iii), only the portion of the incremental increase in the local sales and use tax revenue as is designated by resolution of the municipality shall be so apportioned and distributed under this section,

unless the municipality designates by resolution a lesser time period for the apportionment and distribution of the revenues; and in the event one (1) or more other local taxes are authorized for use within the tourist development zone, then the portion of the additional taxes as are designated by resolution of the municipality shall be similarly apportioned and distributed. For any facility that elects to qualify as a qualified public use facility under § 7-88-103(7)(A)(ii) or (7)(A)(iii), the portion of the incremental increase in the local sales and use tax revenue that is statutorily designated for local schools may not be apportioned and distributed for such a qualified public use facility. For any facility that elects to qualify as a qualified public use facility and is located in any county having a population of not less than seventy-one thousand one hundred (71,100) nor more than seventy-one thousand two hundred (71,200), according to the 2000 federal census or any subsequent federal census, any revenue derived from an increase in the local sales and use tax rate occurring on or after January 1, 2009, may not be apportioned and distributed for such a qualified public use facility and instead shall be apportioned and distributed exclusively as provided in § 67-6-712(a); provided, however, that this sentence shall not apply to any increase in the local sales and use tax enacted after July 1, 2010. Apportionment and distribution of such taxes shall continue, until the earlier of:

(A) The date on which the cumulative amount apportioned and distributed to the municipality equals the cost of the qualified public use facility, plus any interest on indebtedness of the municipality or public authority related to such cost;

(B) The date on which the qualified public use facility ceases to be a qualified public use facility; or

(C) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

(2)(A) After the apportionment and distribution of state sales and use taxes pursuant to subdivision (a)(1) has ceased with respect to one (1) qualified public use facility that consisted of a hotel with at least five hundred (500) rooms and related retail, parking, and commercial uses, that was approved by the state building commission, on recommendation of the comptroller prior to December 31, 2018, or as such approval shall thereafter be amended by the state building commission, and that was placed in service no later than December 31, 2024, the apportionment and distribution of the incremental increase in the local sales and use tax revenue with respect to such qualified public use facility must continue until the earlier of:

(i) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or

(ii) The date the cumulative amount apportioned and distributed to the municipality under this subdivision (a)(2) with respect to such facility equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.

(B) This subdivision (a)(2) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any state sales and use taxes generated by such qualified public use facility hotel and related retail parking and commercial uses as described in subdivision (a)(2)(A).

(C) This subdivision (a)(2) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any local sales and use taxes generated by such qualified public use facility hotel and related retail parking and commercial uses as described in subdivision (a)(2)(A).

(3)(A) After the apportionment and distribution of state sales and use taxes pursuant to subdivision (a)(1) has ceased with respect to one (1) or more qualified public use facilities located in a center city area located in a municipality in a county having a population of not less than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census, the apportionment and distribution of the incremental increase in the local sales and use tax revenue with respect to such qualified public use facility shall continue until the earlier of:

(i) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or

(ii) The date the cumulative amount apportioned and distributed to the municipality under this subdivision (a)(3) with respect to such facility equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.

(B) This subdivision (a)(3) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any state sales and use taxes generated by such qualified public use facility uses as described in subdivision (a)(3)(A).

(C) This subdivision (a)(3) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any local sales and use taxes generated by such qualified public use facility hotel and related uses as described in subdivision (a)(3)(A).

(b) Except as otherwise provided in subsection (c), tax revenue distributed to the municipality shall be for the exclusive use of the municipality or the public authority formally designated by the municipality, in accordance with the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21, the Public Building Authorities Act of 1971, compiled in title 12, chapter 10, or chapter 53 of this title for payment of the cost of the public use facility, including interest and debt service on any indebtedness related to the public use facility, or the lease payments with respect to any public use facility, and shall apply to only one (1) tourism development zone per municipality. The apportionment and payment shall be made by the department of revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter. Notwithstanding this subsection (b), a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, and a municipality in a county having a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall not be limited to one (1) tourism development zone eligible to receive a distribution of tax revenue, and such county and such municipality are not required to designate additional tourism development zones as a secondary tourism development zone to receive a distribution of tax revenue.

(c) If there has been designated within the municipality a secondary tourist development zone, then the incremental increase in state and local sales and

use tax revenue derived from the sale of goods, products and services within the secondary tourist development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax, shall be apportioned and distributed to the municipality for deposit in its general fund. Apportionment and distribution of the taxes shall continue until the earliest of:

(1) The first date on which the indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone has been paid in full;

(2) The date on which the cumulative amount apportioned and distributed equals the cumulative amount of principal and interest on indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone;

(3) The date on which the qualified public use facility ceases to be a qualified public use facility; or

(4) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

7-88-112. Bidding for construction of conference or convention facilities.

(a) For the purposes of this section, unless the context otherwise requires:

(1) "Metropolitan government" means a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(2) "Minority-owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of the business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African-Americans; and

(3) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(b) Any person, in soliciting bids for the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to Acts 2007, ch. 461, shall actively solicit bids from minority-owned businesses. A person shall strive to maximize participation of minority-owned businesses through both prime and second tier business contracting opportunities.

(c)(1) The metropolitan government shall monitor the results of minority-owned business participation. The government shall periodically investigate to ascertain whether minority-owned business participation is being achieved at a level contemplated pursuant to subsection (b) and shall report the information to the comptroller of the treasury in the manner prescribed

in subdivision (c)(2).

(2) The metropolitan government shall prepare and submit an annual report entitled "The Conference and Convention Center Facilities Compliance Report" which shall be submitted to the comptroller of the treasury. The report shall include:

(A) Data on the race, religion, ethnic background and sex of each person employed in the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to Acts 2007, ch. 461;

(B) Data on the actual expenditures to minority-owned businesses employed in the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to Acts 2007, ch. 461; and

(C) Data summarizing the findings of all periodic investigations conducted in accordance with subdivision (c)(1).

(3) [Deleted by 2020 amendment.]

7-88-116. Involvement of minority-owned business.

(a) For the purposes of this section, unless the context otherwise requires:

(1) "Covered qualified public use facility" means a qualified public use facility that elects to qualify as a qualified public use facility under § 7-88-103(7)(A)(ii) or (7)(A)(iii). "Covered qualified public use facility" also means a qualified public use facility created after January 1, 2007, in any county that does not have a metropolitan form of government;

(2) "Local government" means a municipality that creates a tourism development zone for the benefit of a covered qualified public use facility;

(3) "Minority-owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of the business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African Americans;

(4) "Minority-owned business participation plan" means a business plan for actively soliciting bids from minority-owned businesses when a municipality or public authority proposes to finance, construct, lease, equip, renovate or acquire a qualified public use facility within a tourism development zone. Any such plan shall strive to maximize participation of minority-owned businesses through both prime and second tier business contracting opportunities throughout the tourism development zone and shall strive to achieve a level of minority-owned business participation representative of the population demographics of the county in which the tourism development zone is located; and

(5) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(b) Any person, in soliciting bids for the construction of a covered qualified

public use facility in a tourist development zone within the territory of a local government and receiving any benefit, directly or indirectly, from public financing pursuant to Acts 2007, ch. 524, shall actively solicit bids from minority-owned businesses. Such person shall strive to maximize participation of minority-owned businesses through both prime and second tier business contracting opportunities.

(c)(1) The local government shall monitor the results of minority-owned business participation. The local government shall periodically investigate to ascertain whether minority-owned business participation is being achieved at a level contemplated pursuant to subsection (b) and shall report the information to the comptroller of the treasury in the manner prescribed in subdivision (c)(2).

(2) The local government shall prepare and submit an annual report entitled "The Conference and Convention Center Facilities Compliance Report," which shall be submitted to the comptroller of the treasury. The report shall include:

(A) Data on the race, religion, ethnic background and sex of each person employed in the construction of a covered qualified public use facility that is located within the territory of the local government and that receives any benefit, directly or indirectly, from public financing pursuant to the provisions Acts 2007, ch. 524;

(B) Data on the actual expenditures to minority-owned businesses employed in the construction of any such qualified public use facility; and

(C) Data summarizing the findings of all periodic investigations conducted in accordance with subdivision (c)(1).

(3) [Deleted by 2020 amendment.]

(d)(1) Notwithstanding § 7-88-108(a) or any other law to the contrary, to be entitled to receive the allocations of state and local sales and use taxes as provided in this chapter, a municipality or public authority must first file with the department of finance and administration an application seeking certification of the tourism development zone and the planned public use facility as a qualified public use facility. The application shall include a master development plan for the proposed tourism development zone, containing such information as may be reasonably required by the department, and a minority-owned business participation plan for the tourism development zone. No application shall be approved by the department that fails to include a master development plan or a minority-owned business participation plan. A master development plan shall be approved by the legislative body of the municipality creating the tourism development zone and the plan shall take into consideration any historic site, structure, or object listed on the national register of historic places. The department shall review the application to confirm that:

(A) The planned public use facility is qualified under the requirements of this chapter;

(B) The planned public use facility will be located within a qualified tourism development zone; and

(C) The minority-owned business participation plan includes the following information:

(i) The proposal for purchasing goods and services from minority-owned businesses;

(ii) Information on programs to provide technical assistance to such

businesses;

(iii) A statement of intent to make a concerted effort to follow its minority-owned business participation plan; and

(iv) Any other information deemed relevant in the discretion of the commissioner.

(2) Notwithstanding any provision of this chapter to the contrary, the department of finance and administration shall annually review each municipality or public authority receiving an allocation pursuant to this chapter for compliance with the municipality's or public authority's minority-owned business participation plan.

(3) This subsection (d) shall only apply to any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census.

8-10-104. Completion of in-service education required prior to exercise of law enforcement powers and authority.

(a) A constable shall not exercise any law enforcement powers and authority conferred upon the constable by §§ 8-10-108, 39-17-1315, 39-17-1350, 40-6-210, 40- 6-212, 55-8-152, 57-9-101, 57-9-103, and 57-9-201, if the constable fails to complete the in-service education requirements described in part 2 of this chapter.

(b) A constable who violates this section commits a Class C misdemeanor, subject to a fine only. Each day of a violation of this section constitutes a separate offense.

8-14-102. Creation of the district public defenders office — Positions and qualifications — Elections and appointments.

(a) For each judicial district, except the twentieth and thirtieth districts, the offices of district public defender, assistant district public defender and district investigator are hereby created.

(b)(1)(A) The terms of office of all district public defenders shall be eight (8) years, and until their successors are elected and qualified. Each district public defender shall be elected by the qualified voters of each respective district in the regular August election. The district public defender shall be a duly licensed attorney admitted to the practice of law in this state, and shall have been a resident of the state for five (5) years and of the judicial district for one (1) year.

(B) A vacancy in the office of the district public defender shall be filled by the voters of the district at the next biennial election more than thirty (30) days after the happening of the vacancy. The election shall be ordered by the governor by issuing proper writs of election to the county election commissions throughout the district, notice being given for one (1) month by publication in one (1) or more newspapers in the district. In the meantime, the governor shall appoint a suitable person to fill the office temporarily until the election takes place.

(C)(i) Effective September 1, 2022, there is created the position of district public defender for the thirty-second judicial district. At the regular August election in 2022, the qualified voters of the thirty-second judicial district shall elect a person to the position of district public defender for a full eight-year term. The person elected to such position

shall possess the same qualifications, powers, and duties and shall receive the same compensation, payable in the same manner, benefits, emoluments, and dignity of office as is required or provided by law for other district public defenders.

(ii) The district public defender of the thirty-second judicial district is entitled to three (3) assistant public defender positions, one (1) district investigator position, one (1) administrative assistant position, and two (2) secretary positions.

(iii) On September 1, 2022, the district public defender is entitled to purchase such office space and other office property necessary to establish the office of the district public defender for the thirty-second judicial district. Nothing contained herein shall be construed as prohibiting such district public defender from also establishing an additional office in the thirty-second judicial district. By September 1, 2022, all records, files, papers, and other official documents pertaining to any pending or completed case arising out of any of the counties comprising the thirty-second judicial district shall be transferred to and become the property of the office of district public defender for the thirty-second judicial district.

(2) The district public defender of any judicial district in which assistant district public defender positions are authorized by law shall appoint suitable persons to serve as assistant district public defenders. Any assistant district public defender shall be an attorney licensed to practice law in this state. Persons so appointed shall serve at the pleasure of the district public defender and shall perform such duties as the district public defender may require.

(3) The district public defender of any judicial district in which district investigator positions are authorized by law shall appoint suitable persons to serve as district investigators. Persons so appointed shall serve at the pleasure of the district public defender and shall perform such duties as the district public defender may require.

(c) No person holding the office of district public defender pursuant to this part shall be permitted to engage in the practice of law except as the duties of such office require. No person employed as a full-time assistant district public defender or as a full-time district investigator pursuant to this part shall be permitted to engage in the practice of law except as the duties of such positions require. Notwithstanding any other restrictions, attorneys with pending private legal matters at the time of employment with the office of district public defender shall have a reasonable length of time to conclude or transfer such cases in keeping with the standards of professional and ethical conduct.

(d)(1) For each judicial district in which district public defenders are authorized, there shall be authorized the following number of assistant district public defender positions:

Judicial district	Assistant district public defender positions
1	6
2	6
3	6
4	5
5	3

Judicial district	Assistant district public defender positions
6	16
7	3
8	4
9	3
10	5
11	10
12	4
13	5
14	3
15	4
16	5
17	4
18	4
19	6
21	4
22	5
23	4
24	4
25	5
26	5
27	3
28	3
29	3
31	1

(2) It is the legislative intent to provide additional assistant district public defender positions in both the 20th and 30th judicial districts in a manner consistent with the most current weighted caseload study. Funding for these positions shall be contingent upon specific appropriation by the general appropriations act for such positions.

(e) For each district, there is authorized at least one (1) criminal investigator position and one (1) additional criminal investigator for each five (5) assistant district public defenders or majority portion of such number.

(f) A district public defender may fill a full-time employee position with two (2) part-time employees. In order to implement such assignments, available funds may be reallocated or transferred, subject to overall budgetary limits.

(g) There is authorized one (1) paralegal position for the sixth judicial district.

(h) The number of assistant district public defender positions enumerated in this section or any other law for each specified judicial district shall be the minimum number of positions authorized in the district. Nothing in this section or any other law shall be construed to prohibit or prevent the employment of additional assistant district public defenders in a particular judicial district, regardless of whether the positions are funded by a state or non-state source, or whether they are specifically enumerated in this or any other section.

8-14-107. Compensation.

(a) Effective July 1, 1994, the salary for district public defenders shall be an amount equal to eighty-eight percent (88%) of the salary established by law for district attorneys general. Effective July 1, 1995, the salary for district public defenders shall be an amount equal to the salary established by law for district attorneys general. On March 1, 2018, the base salary for district public defenders shall be one hundred fifty-six thousand twenty-four dollars ($156,024) and shall be adjusted on July 1 to reflect the average percentage pay increase provided for state employees by the general appropriations act.

(b)(1) A full-time assistant district public defender shall be compensated according to the following pay schedule:

Entry level	$	49,080
after one (1) year		52,164
after two (2) years		55,248
after three (3) years		58,344
after four (4) years		61,452
after five (5) years		64,512
after six (6) years		67,596
after seven (7) years		70,704
after eight (8) years		73,812
after nine (9) years		76,872
after ten (10) years		79,968
after eleven (11) years		83,052
after twelve (12) years		86,100
after thirteen (13) years		89,184
after fourteen (14) years		92,256
after fifteen (15) years		95,328
after sixteen (16) years		98,424
after seventeen (17) years		101,220
after eighteen (18) years		103,932
after nineteen (19) years		106,548
after twenty (20) years		109,020
after twenty-one (21) years		112,620
after twenty-two (22) years		116,316
after twenty-three (23) years		120,144
after twenty-four (24) years		124,392
after twenty-five (25) years		128,616

(2) The salary levels for assistant district public defenders shall be increased by such percentage amount as shall be fixed by the general assembly in the general appropriations act. For the purpose of budget preparation, it shall be presumed that such percentage amount shall be the same as that received by other state employees.

(3) The executive director of the Tennessee district public defenders conference shall certify the entry level of compensation awarded to assistant district public defenders based on prior service credits. Subject to the approval of the district public defender, assistant district public defenders shall be entitled to prior service credits as follows:

(A) Any assistant district public defender who has prior experience as an assistant district public defender, an assistant district attorney general, a district public defender, a district attorney general, a criminal

investigator for the district public defenders, a criminal investigator for the district attorneys general, a United States attorney, an assistant United States attorney, an assistant attorney general representing the state in criminal litigation, an elected judge of a court with criminal jurisdiction, an attorney who served as a law clerk for an appellate or trial judge of a court with criminal jurisdiction or an attorney who as a commissioned officer worked as a military attorney in the field of criminal defense or criminal prosecution while on full-time active duty in the judge advocate general's corps of any of the armed services of the United States, shall be eligible to receive year-for-year credit upon the recommendation of the hiring district public defender, and subject to the approval of the executive committee of the Tennessee district public defenders conference.

(B) The executive director of the Tennessee district public defenders conference may certify prior service credits for prior practice of law but not exceeding the assistant's experience as a licensed practicing attorney and, in no case, shall year-for-year credit exceed twelve (12) years.

(4) Implementation of salary increases pursuant to the pay schedule prescribed in subdivision (b)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subdivision (b)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(5) The salary increase provided by subdivision (b)(1), and suspended by subdivision (b)(4) for the period July 1, 2003, through June 30, 2004, shall be reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification for assistant district public defenders, credible service for the time period of July 1, 2003, through June 30, 2004, shall be included.

(6) The salary increase provided by subdivision (b)(1), and suspended by subdivision (b)(4) for the period July 1, 2009, through June 30, 2010, is reinstated effective July 1, 2019. For purposes of determining the appropriate salary classification for assistant district public defenders, credible service for the time period of July 1, 2009, through June 30, 2010, is included.

(c)(1) Effective March 1, 2018, all full-time district investigators shall be compensated according to the following pay schedule:

Entry level	$ 33,852
after two (2) years	36,924
after four (4) years	39,972
after six (6) years	43,032
after eight (8) years	46,164
after ten (10) years	49,188
after twelve (12) years	52,320
after fourteen (14) years	55,332
after sixteen (16) years	58,428
after eighteen (18) years	61,512
after twenty (20) years	64,584

(2) The salary levels for district investigators shall be increased by such percentage amount as shall be fixed by the general assembly in the general

appropriations act. For the purpose of budget preparation, it shall be presumed that such percentage amount shall be the same as that received by other state employees.

(3) The executive director of the district public defenders conference shall certify the level of compensation awarded to district investigators based on prior service credits. Subject to the approval of the district public defender, district investigators are entitled to the same prior service credits as allowed criminal investigators for the district attorneys general in § 8-7-231, as well as relevant experience as a criminal defense investigator.

(4) If a district public defender having a vacant district investigator position appoints a licensed attorney to that position and designates that person to serve as an assistant district public defender, the appointee may, upon recommendation of the appointing district public defender, with approval of the executive committee of the district public defenders conference be compensated as an assistant district public defender as provided for in subsection (b).

(5) Implementation of salary increases pursuant to the pay schedule prescribed in subdivision (c)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subdivision (c)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(6) The salary increase provided by subdivision (c)(1), and suspended by subdivision (c)(5) for the period July 1, 2003, through June 30, 2004, shall be reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification for district public defender investigators, credible service for the time period of July 1, 2003, through June 30, 2004, shall be included.

(7) The salary increase provided by subdivision (c)(1), and suspended by subdivision (c)(5) for the period July 1, 2009, through June 30, 2010, is reinstated effective July 1, 2020. For purposes of determining the appropriate salary classification for district public defender investigators, credible service for the time period of July 1, 2009, through June 30, 2010, is included.

8-21-401. Schedule of fees.

(a) Except as otherwise provided by law, the costs provided in this section in civil cases are chargeable and may be collected at the time the services are requested from the clerk or other officer of the court; however, nothing in this section should be construed to limit the ability of a party to initiate a judicial proceeding by filing a pauper's oath. In cases where payment of the clerk's fees would create a substantial hardship for a party, judges are encouraged to use the discretion provided in Rule 29 of the Tennessee Rules of the Supreme Court to find that the party is indigent, even if that person does not meet the Legal Services Corporation's poverty guidelines. If a party, other than a party who initiated a proceeding under a pauper's oath, pays costs at the time the services are requested, such payment shall be deemed to satisfy the requirement for security to be given for costs, pursuant to § 20-12-120. In proceedings

covered by subdivision (b)(1)(A), and in workers compensation complaints, the attorney filing the action shall have the option to sign a cost bond, in lieu of the party paying the clerk's fees at the time services are requested. The clerk shall not refuse to file an action where the attorney has opted to sign a cost bond. In any action where the clerk refuses to accept such cost bond in lieu of the party paying the clerk's fees, all costs in that action shall be forfeited by the clerk. These requirements for fees to be paid or security provided when services are requested from the clerk do not apply in criminal cases. The fees listed in this section do not include officer's fees as provided for in § 8-21-901 and elsewhere. These fees also do not include state and local litigation taxes.

(b) **Fees in Civil Cases in Circuit and Chancery Court.**

(1)(A) Unless otherwise provided, court clerks in civil cases in courts of record shall charge a standard court cost of two hundred twenty-five dollars ($225) at the institution of a case. The types of cases covered by this fee would include, but not be limited to, actions for enforcement of contracts or breach of contract actions; injunctions; all torts, personal injury and property damage cases, including malpractice actions, health care liability actions, and wrongful death suits; employment discrimination suits; civil rights suits; tax disputes; special remedies; other property disputes; and any other type of actions not otherwise designated in this section or elsewhere by law.

(B) In divorce cases involving minor children, the clerk shall charge a standard court cost of two hundred dollars ($200) at the institution of a case. In divorce cases that do not involve minor children, the clerk shall charge a standard court cost of one hundred twenty-five dollars ($125) at the institution of a case.

(C) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred fifty dollars ($150) at the institution of a case:

(i) Appeals to the circuit or chancery court from juvenile court, general sessions court, probate courts, municipal courts or an administrative hearing; writs of certiorari from lower courts; or administrative hearings;

(ii) Transfers of cases from foreign counties;

(iii) Requests for writ of mandamus;

(iv) Worker's compensation actions;

(v) Condemnations and inverse condemnations; and

(vi) Quo warranto proceedings.

(D) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred dollars ($100) at the institution of a case:

(i) Adoptions;

(ii) Legitimations;

(iii) Paternity cases;

(iv) Restoration of citizenship;

(v) Termination of parental rights;

(vi) Other domestic relations matters not otherwise designated;

(vii) Name changes;

(viii) Minor settlements;

(ix) Enforcement of foreign judgments;

(x) Civil expungements where authorized by law; and

(xi) Orders of protection.

(E) In the following specific actions, the clerk shall charge a standard court cost of seventy-five dollars ($75.00): child support enforcement and modification, including interstate support cases and civil contempt actions, and requests for modification of a parenting plan.

(F) In delinquent property tax cases, the clerk shall assess a filing fee of forty-two dollars ($42.00) per parcel. For each parcel of property for which the judge issues an order to sell, there shall be a fee of one hundred dollars ($100) for clerk's services related to that action.

(2)(A) For the purposes of determining the fees of the clerk of court, when any third party complaint in a civil case is filed, the party filing the complaint shall be charged the same fee as was charged at the initiation of the original civil proceeding.

(B) The fee for cross-filings and counter complaints in civil cases in courts of record shall be one hundred dollars ($100).

(c) The clerks of the various courts administering estates, guardianships, conservatorships, and other probate matters are entitled to demand and shall receive for their services the following fees:

(1) For opening and closing an estate, other than a small estate, including giving notice of the opening of the estate to the department of revenue, two hundred thirty dollars ($230);

(A) For filing and docketing claims, giving notice and filing release on each claim for a decedent's estate, to be paid by claimant, eleven dollars ($11.00);

(B) For filing exceptions to claims against estates, mailing notices and entering order, forty-two dollars ($42.00);

(2) For filing small estate affidavits and giving notice of the opening of the estate to the department of revenue, forty-one dollars ($41.00);

(3) For filing a request for letters of guardianship and conservatorship; issuing all initial process and cost bond; entering order and issuing certificate of guardianship and conservatorship, not including fee of the sheriff; and including final accounting and order closing, regardless of court where filed, one hundred sixty dollars ($160);

(4) For filing a new request for removal of disabilities of minority, and incompetence, filing affidavits and entering orders; for filing a new request to legitimate a person, change a name or correct a birth certificate and enter orders; for filing a new request for habeas corpus, filing cost bond, issuing process and enter orders, not including fee of the sheriff, one hundred dollars ($100);

(5) For filing requests under the mental health law, compiled in title 33, issuing notices, entering return, and entering judgments after hearing, not including fee of the sheriff, fifty dollars ($50.00);

(6) For filing and docketing any request on an existing case, other than a request to close the case, not otherwise provided for, eighteen dollars ($18.00);

(7) For entering any order on an existing case, other than closing order, not otherwise provided for, twelve dollars ($12.00);

(8) For issuing summons, subpoenas, citations, writs and notices, including copies of process when required by law, other than initial process, six dollars ($6.00);

(9) For filing any document not otherwise provided for in probate court,

seven dollars ($7.00); and

(10) For filing, reviewing, recording annual or interim settlement or accounting and entering order approving settlement only, forty dollars ($40.00).

(d) **Fees in Criminal Cases in Courts of Record.**

(1) Unless otherwise provided in this section, court clerks in criminal cases in courts of record shall charge a standard court cost of three hundred dollars ($300). This fee shall apply per case per defendant.

(2) The clerk shall charge a fee of one hundred dollars ($100) for proceedings related to a violation of probation, any post-judgment actions, or expungements.

(3) The clerk shall charge a fee of seventy-five dollars ($75.00) for criminal contempt actions, including criminal contempt proceedings in civil courts, for failure to appear, requests for bonding company release from final forfeiture, requests to reinstate a driver license, and requests for relief.

(4) Reimbursement from the state shall be limited to the fees as currently allowed by law.

(e) **Fees for Proceedings in Juvenile Court.**

(1) Unless otherwise provided in this section, court clerks in juvenile proceedings shall charge a standard court cost of one hundred dollars ($100). This fee shall apply to all juvenile proceedings not otherwise designated, including, but not limited to, requests to establish support or nonsupport, proceedings related to parentage, paternity cases, and legitimations.

(2) For requests for modification of child support, the clerk shall charge a fee of seventy-five dollars ($75.00).

(3) In the following actions, the clerk of the juvenile court shall charge a fee of forty-two dollars ($42.00): juvenile traffic cases, consent orders, diversion and nonjudicial disposition of juvenile cases, voluntary motions to grant custody, marriage waivers, attachment pro corpus, and bench warrants.

(4) In the following actions, the clerk of the juvenile court shall charge a fee of twenty-five dollars ($25.00): restricted licenses, drug screenings, entering order of appeal and taking appeal bond, entering judgment from appellate court, entering order allowing rehearing, and special pleas.

(5) In the following actions, the clerk of the juvenile court shall charge a fee of sixty-two dollars ($62.00): delinquency and unruly cases, and felony and misdemeanor cases in juvenile court.

(f) **Actions in General Sessions Court.**

(1) General sessions civil filing fee, forty-two dollars ($42.00). Unless otherwise provided elsewhere in this section, court clerks in civil cases in general sessions court shall charge a standard filing fee of forty-two dollars ($42.00). This fee is intended to cover all initial court clerk's costs for initiating a civil proceeding in general sessions court, including, but not limited to, hearings regarding short term mental health commitments, appeals of decisions denying the issuance of handgun permits, and requests not otherwise provided for. This fee shall not apply to orders of protection, which shall have the same fee, when costs are adjudged, as in courts of record, of one hundred dollars ($100).

(2) When a general sessions court is exercising concurrent civil jurisdiction with a court of record, the clerk shall charge the litigation taxes and court costs applicable in courts of record.

(g) **Criminal Actions in General Sessions Court.**

(1) General session criminal base fee, sixty-two dollars ($62.00). This fee shall be charged per conviction per defendant. For cases involving traffic citations, instead of sixty-two dollars ($62.00), the base court cost shall be forty-two dollars ($42.00).

(2) Failure to appear, forty dollars ($40.00). In cases where the defendant fails to appear or pay fines or costs and the court issues an attachment, bench warrant, capias or other process to compel the defendant's attendance at the court, the defendant shall be charged an additional fee for clerk's costs of forty dollars ($40.00).

(3) Calling in surety, forty dollars ($40.00). The clerk shall charge the defendant this fee each time a scire facias or other proceeding is instituted to bring in a surety, or make action against a bond in criminal cases for failure to appear.

(4) The clerk shall charge a fee of seventy-five dollars ($75.00) for requests for bonding company release from final forfeiture, or requests to reinstate a driver license.

(5) The clerk shall charge a fee of one hundred dollars ($100) for expungements.

(h) **Clerk's Commissions.**

(1) Except as provided in subdivisions (h)(2) and (3), for receiving and paying over all taxes, fines, forfeitures, fees and amercements, the clerk of the court is entitled to a five percent (5%) commission.

(2) In counties having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census, the commission for receiving and paying over all taxes, fines, forfeitures, fees and amercements, shall be ten percent (10%), except as provided in subdivision (h)(3).

(3) For receiving and paying over all privilege taxes on litigation, the clerk of the court is entitled to a six and seventy-five hundredths percent (6.75%) commission. The total amount of commissions receivable by the clerk of the court during any fiscal year shall not be less than the amount received by such clerk during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount of commissions receivable by the clerk of the court for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

(i) **Other Fees of Court Clerks.** The following fees apply uniformly in all courts, general sessions, juvenile, probate, circuit or chancery, and may be charged in addition to the fees for cases listed in this section:

(1) **Standard Post-judgment Fee.** Unless otherwise provided, court clerks in criminal and civil cases in all courts shall charge a standard post-judgment fee of twenty-five dollars ($25.00). This fee shall be charged per occurrence and shall be charged regardless of whether judgment is enforced by garnishment, execution, levy or other process. This fee shall also apply to post-judgment interrogatories, publications, motions to set installment payments, and orders and pleas.

(2) For issuing a subpoena or subpoena duces tecum, the fee shall be six dollars ($6.00).

(3)(A) In all cases in all courts, the clerk shall charge a fee of five dollars

($5.00) for each requested continuance.

(B) In addition to the fee provided for in subdivision (i)(3)(A), the clerk shall also collect a courtroom security enhancement fee of two dollars ($2.00). The revenues from the two-dollar courtroom security enhancement fee shall be deposited into the county general fund. All revenue from this fee shall be used exclusively for the purposes of providing security and enhancing the security of court facilities in the county. For each fiscal year, the court security committee, created by § 16-2-505(d)(2), shall develop and submit recommendations to the county legislative body regarding how such funds shall be utilized.

(C) The fees for continuances shall be collected at the conclusion of the case. If multiple litigants request a continuance, the judge may assess these fees to one (1) or more parties.

(4) For making copies as requested, other than for an original filing and other than when preparing a record upon appeal, the fee shall be fifty cents (50¢) per page.

(5) For making certification and seal, providing a copy of an abstract, or providing driver license certification, the fee shall be five dollars ($5.00).

(6) For receiving funds paid into court on confirmation of private sales or other funds paid into the clerk pursuant to court order, and collecting and paying out the proceeds, the fee shall be forty dollars ($40.00). This fee also applies where there is a pre-judgment judicial attachment or similar process to bring property into the court's possession prior to judgment. This fee shall not apply to payments of proceeds made pursuant to court order to any person from funds held by the clerk, except for court orders concerning a redemption of delinquent taxes property sale; in such case, the fee shall only be charged one (1) time against the total amount of proceeds generated from the property.

(7) For selling real or personal property under decree of court, and receiving, collecting, and paying out the proceeds, a commission not to exceed three percent (3%) on the amount of sales. The clerk shall collect the sheriff's fee, plus the sheriff's fee for each additional defendant, in a proceeding to sell real estate.

(8) The clerks of the various courts have the authority to invest idle funds held under their control, not otherwise invested. Such investments shall be in banks or savings and loan associations operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation. Such investments shall not exceed the amounts that are federally insured, unless otherwise fully collateralized under a written collateral agreement, or unless the funds are deposited with an institution that is a member of the state collateral pool. The interest on such investments shall become part of the fees of the court clerk and the clerk shall be required to account for interest received, the same as with other fees received. Any funds authorized to be invested may be invested by the clerk in the local government investment pool administered by the state treasurer.

(9) Nothing in this section shall be construed to relieve the clerks of courts from the responsibility of investing funds held under their control, pursuant to court order or under the rules of court. The interest on those investments shall accrue to the benefit of those directed by the court or by agreement of the parties to the litigation.

(10) For investing funds, the clerk shall receive a fee of five percent (5%) of the earnings of such investment.

(11) For preparing a record on appeal from a court of record to an appellate court, the fee shall be three hundred dollars ($300).

(12) Whenever the clerk is required by law or by a judge to send documents by certified or registered mail, the clerk is entitled to recover the clerk's actual costs for mailing the documents.

(j) **Earmarked Funds for Computerization.**

(1) Out of all the general filing fees charged by court clerks, two dollars ($2.00) of the amount collected shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer related expenses at the discretion of the clerk. Such amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(2) Effective July 1, 2012, all the general filing fees charged by court clerks shall be increased by two dollars ($2.00). The amount collected pursuant to this two-dollar increase shall be earmarked, along with the two dollars ($2.00) in subdivision (j)(1), for the purposes set forth in subdivision (j)(1), and shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended. Pursuant to subsection (*l*), the fees increased by this subdivision (j)(2) shall not be assessed against the state or otherwise represent a cost to the state in criminal cases, child support actions, mental health proceedings, actions under the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1, actions with regard to child care licensing, and collection efforts brought by the department of human services.

(k) **Costs in Extraordinary Cases.** In any extraordinary cases, the clerk may petition the judge to award reasonable costs, in excess of the amounts provided in this section, to reimburse the clerk for the additional services demanded by the case. In such cases, the clerk may also petition the judge to require an appropriate cost bond. For the purposes of this subsection (k), an extraordinary case is defined as one in which there are ten (10) or more plaintiffs or ten (10) or more defendants.

(*l*) **Charges to the State Unchanged.** Notwithstanding any provision of this section to the contrary, any fees increased by this section that are assessed against the state or that otherwise represent a cost to the state in criminal cases, child support actions, mental health proceedings, actions under the Tennessee Adult Protection Act. compiled in title 71, chapter 6, part 1, actions with regard to child care licensing, and collection efforts brought by the department of human services, shall be limited to the amounts chargeable prior to January 1, 2006.

(m) **Indigent Parties.** No clerk shall be permitted to collect any fee authorized by this section without permitting any person the opportunity to institute a cause of action by means of a pauper's oath, in accordance with Rule 29 of the Rules of the Tennessee Supreme Court.

(n)(1) Except as provided in subdivision (n)(2), the fees provided for in this section shall not apply to circuit court clerks, criminal court clerks, clerks and masters of chancery courts, clerks of courts of general sessions, county clerks, clerks of juvenile and probate courts, and clerks of law and equity courts in counties with a charter form of government that have a population of not less than three hundred and fifty thousand (350,000) nor more than

four hundred and fifty thousand (450,000), according to the 2000 federal census or any subsequent federal census. In those counties, the clerks shall instead charge the fees provided for in § 8-21-409. For the purpose of administering court costs and clerk's fees in counties affected by this subsection (n), any statutory reference to this section shall be deemed to be a reference to § 8-21-409.

(2) The fees provided for in this section shall apply to the criminal court, fourth circuit and the general sessions court-criminal division in any county with a charter form of government that has a population of not less than three hundred and fifty thousand (350,000) nor more than four hundred and fifty thousand (450,000), according to the 2000 federal census or any subsequent federal census.

(o) **Fees for Electronic Filing and Retrieval of Court Documents.**

(1) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule and is in compliance with technological standards established by the supreme court, clerks may assess a transaction fee for each filing submitted by a party to the case. The transaction fee shall be limited to a maximum of five dollars ($5.00) per filing up to a maximum of fifty dollars ($50.00) per case. As an alternative to a transaction fee, clerks may assess an annual subscription fee for each registered user of the electronic filing system. The subscription fee shall permit the registered user unlimited electronic filing for a one-year period. The one-year period shall be defined by the clerk and shall be consistently maintained for all registered users of the electronic filing system. The annual subscription fee shall not exceed three hundred dollars ($300) for each annual period. Each of these fees shall be set in an amount necessary to defray the expenses associated with implementation and maintenance of the electronic filing and document retrieval system and shall be included in the local court rule authorizing it. Pursuant to subsection (l), these fees shall not be assessed against the state.

(2) Pursuant to subsection (m), neither the transaction fee nor the subscription fee shall be assessed to a party declared indigent or to that indigent party's legal representative.

(3) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule, the state and any department or contractor of the state shall not be required to file documents electronically, notwithstanding any local court rule.

(4) Neither the electronic filing transaction fee or subscription fee shall limit a clerk's statutory authority to charge subscription fees or transaction fees for obtaining copies of documents maintained by the clerk as part of an electronic filing system of a separate document management system.

8-21-409. Fees for court clerks in certain counties with a charter form of government.

(a) Circuit court clerks, criminal court clerks, clerks and masters of chancery courts, clerks of courts of general sessions, clerks of trial justice courts, county clerks, clerks of juvenile and probate courts, and clerks of law and equity courts, in counties with a charter form of government having a population of not less than three hundred and fifty thousand (350,000) nor more than four hundred and fifty thousand (450,000), according to the 2000

federal census or any subsequent federal census, are authorized to demand and receive for their services, where appropriate, the following fees for services indicated:

(1) **Issuing process.**

(A) For issuing summons for each defendant, order of publication, attachment for property or witness, replevin, injunction, refunding bonds in equity cases, any notice required by law, fieri facias, scire facias, venditioni exponas, writ of possession, distringas, capias, writ of error, writ of certiorari, writ of supersedeas, or any other writ, ancillary attachments, distress warrants, and criminal summons, five dollars ($5.00).

(B) For issuing subpoena to bring in paper or record, etc., and for issuing subpoena for each witness, two dollars ($2.00).

(C) For issuing state's warrant with affidavit, four dollars ($4.00).

(D) For issuing forcible entry and detainer warrant, or any other civil warrant in general sessions courts, or trial justice courts, three dollars ($3.00).

(E) For each additional name on any state or civil warrant, one dollar ($1.00).

(F) For summons to answer in city's or county's suit for taxes for each defendant, three dollars ($3.00).

(G) For issuing order to sheriff to summon jurors or commissioners to divide land, three dollars ($3.00).

(H) For preparation and issuance of garnishment to officer, two dollars ($2.00).

(I) For each copy of the above processes when required by law, one dollar and fifty cents ($1.50).

(J) For each recognizance, bond or mittimus, two dollars ($2.00).

(2) **Filing instruments.** For filing each bond, bill, complaint, motion or other pleading, document, exhibit, or article, affidavit, record or paper, presentment or indictment, criminal warrant pending action from grand jury, two dollars ($2.00).

(3) **Taking acknowledgment on legal instruments.**

(A) For qualifying each surety on a bond or for taking an affidavit, two dollars ($2.00).

(B) For affixing the seal on any legal instrument, two dollars ($2.00).

(C) For taking a deposition, five dollars ($5.00).

(D) For empaneling a jury, two dollars ($2.00).

(E) For examining a party in interrogatories, five dollars ($5.00).

(4) **Rule entries.**

(A) For each order, bond, bill, complaint, motion or other pleading, document, exhibit, or article, affidavit, record or paper, presentment or indictment, criminal warrant, criminal summons, pending action from grand jury and return of process entered upon the rule, trial, or execution docket, two dollars ($2.00).

(B) For making and entering on execution docket each bill of costs, three dollars ($3.00).

(C) For entering each judgment, three dollars ($3.00).

(D) For entering judgment against state or county, where defendant is shown by execution to be insolvent, three dollars ($3.00).

(E) For entering order of appeal to any appellate court, three dollars

($3.00).

(F) For each probate of a witness, one dollar and fifty cents ($1.50).

(G) For furnishing each bill of costs, two dollars ($2.00).

(5) **Minute entries and copies of legal instruments.**

(A) For entering minutes or a transcript of record, or copies of any pleadings, papers, and proceedings in a cause, per one hundred (100) words, four (4) figures to be counted as a word, one dollar ($1.00).

(B) Copy of indictment or presentment for a defendant in jail, copy of indictment in minute book, copy of indictment to warden of penitentiary, two dollars ($2.00).

(C) Certified copy of sentence furnished to warden of penitentiary and certified copies and statements of sentence to workhouse for superintendent of workhouse and for county mayor, three dollars and fifty cents ($3.50).

(D) For transcript of judgment and bill of costs for comptroller or treasurer, two dollars and fifty cents ($2.50).

(E) For every certificate not included in some other service, two dollars ($2.00).

(F) Copy of commitment or acquittal to judicial cost accountant, two dollars and fifty cents ($2.50).

(G) Furnishing appointed attorneys, indigent defendants or petitioners with copies of documents at two dollars ($2.00) for the first page and one dollar ($1.00) for each additional page, not to exceed ten dollars ($10.00).

(6) **Commissions.**

(A) Except as provided in subdivision (a)(6)(B), for receiving and paying over all taxes, fines, forfeitures, fees and amercements, the clerk of the court is entitled to a five percent (5%) commission.

(B) For receiving and paying over all privilege taxes on litigation, the clerk of the court is entitled to a six and seventy-five hundredths percent (6.75%) commission. The total amount of commissions receivable by the clerk of the court during any fiscal year shall not be less than the amount received by such clerk during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount of commissions receivable by the clerk of the court for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

(C) For selling property under decree of court, and receiving, collecting and paying out the proceeds, a commission not to exceed five percent (5%) on the amount of sales up to six thousand dollars ($6,000), and an additional amount to be fixed within such limits in the discretion of the court.

(D) On confirmation of private sales, and receiving, collecting and paying out the proceeds, a commission of two percent (2%).

(E) Additional compensation allowable by court for accounts and settlements of administration and reports under reference.

(F) For receiving and paying out workers' compensation installment payments, five percent (5%) on the dollar.

(7) **Miscellaneous.**

(A) For drawing deed of conveyance under orders of the court, reciting

all proper facts, twenty dollars, ($20.00).

(B) For deciding upon exceptions to answers, for each exception, two dollars ($2.00).

(C) For tax encumbrances report and services connected with the report and services, three dollars ($3.00).

(D) For receiving and recording a bank's sworn statement of capital stock paid up, and its financial condition, for executing trusts, two dollars ($2.00).

(E) For each certificate as to tax bill, required to be made to the county trustee in such case, one dollar ($1.00).

(F) Workers' compensation settlements under § 50-6-240:

(i) For filing proceedings and entering any judgment on the proceedings, minimum twenty dollars ($20.00); and

(ii) For each certified copy of the final judgment, three dollars ($3.00).

(G) For receiving and handling motor vehicle license or submitting abstracts on motor vehicle violations, two dollars ($2.00).

(H) For preparing and mailing correspondence notifying defendants and attorneys of record of the setting of criminal and civil cases on the court docket, two dollars ($2.00).

(I) For proceedings in adoption and legitimation cases, change of name, registration of citizenship cases, plus any litigation tax, if applicable, seventy-five dollars ($75.00).

(J) For proceedings in uncontested divorces, plus any litigation tax and divorce referee fees, if applicable, seventy-five dollars ($75.00).

(K) For proceedings in expunging public records in the criminal, circuit, or general sessions courts, pursuant to § 40-35-313, or where an indictment, presentment or warrant was dismissed as a result of a diversion program, according to §§ 40-15-102—40-15-105, inclusive, forty dollars ($40.00).

(L)(i) In criminal cases in a court of record, the circuit or criminal clerk has the option to charge a flat fee, in lieu of itemizing the fees as set forth in this subsection (a); the clerk's fee in misdemeanor and felony cases shall be, plus any state and local litigation tax applicable, two hundred fifty dollars ($250).

(ii) In criminal cases in general sessions court, the clerk has the option to charge a flat fee in lieu of itemizing the fees as set forth in this subsection (a); the clerk's fee for each conviction in criminal cases in general sessions court shall be forty dollars ($40.00).

(M) In the following cases the clerk may, at the clerk's option, charge a flat fee, instead of itemizing the fees set out in this subsection (a):

(i) The clerk's fee in contempt cases shall be thirty-five dollars ($35.00).

(ii) The clerk's fee for cases involving child support enforcement shall be thirty-five dollars ($35.00).

(iii) The clerk's fee for cases involving default judgments shall be, for each case, seventy-five dollars ($75.00).

(N) The clerk shall notify the office of the comptroller of the treasury and the county mayor of the clerk's election to charge a flat fee in lieu of itemizing fees. The election to charge a flat fee shall apply to all cases set out in subdivision (a)(7)(M). Elections become effective on July 1, after notice, and shall remain effective indefinitely, unless the clerk gives notice to the office of the comptroller of the treasury and the county mayor of a

change in the election.

(O) For petitions for visitation of a minor child, including grandparent visitation, seventy-five dollars ($75.00).

(P) For petitions for custody or change of custody of minor child, seventy-five dollars ($75.00).

(Q) For petitions to enter a foreign judgment, seventy-five dollars ($75.00).

(R) For filing and docketing petitions and orders not otherwise provided, seventy-five dollars ($75.00).

(S) For proceedings in claims for abandoned mineral interests cases, pursuant to § 66-5-108, thirty-five dollars ($35.00).

(T) In all cases where a fine is imposed, but is to be paid in installments, the clerk shall charge a fee for services in administering a deferred payment plan in accordance with § 40-24-101, in the amount of five percent (5%) of the total, not to exceed fifteen dollars ($15.00).

(b) The clerks of the various courts of the state administering estates, guardianships, conservatorships and other probate matters are entitled to demand and shall receive for their services the following fees:

(1) For filing petition, entering order, recording bond and issuing original letters of administration in intestacy cases, sixty dollars ($60.00);

(2) For filing petition to probate will and entering order, without issuing letters testamentary, forty-eight dollars ($48.00);

(3) For filing petition to probate will of three (3) pages or less in length, entering order, issuing original letters testamentary when bond is waived, recording will, sixty-six dollars ($66.00);

(4)(A) For filing petition to probate will of more than three (3) pages in length, entering order, issuing original letters testamentary when bond is waived, recording will, sixty-six dollars ($66.00);

(B) Plus for each additional page of will in excess of three (3) pages, one dollar ($1.00);

(5) For filing petition to probate will of three (3) pages or less in length, entering order, issuing original letters testamentary or original letters of administration c.t.a., recording bond, seventy-two dollars ($72.00);

(6)(A) For filing petition to probate will of more than three (3) pages in length, entering order, issuing original letters testamentary or original letters of administration c.t.a., recording bond, seventy-two dollars ($72.00);

(B) Plus for each additional page of will in excess of three (3) pages, one dollar ($1.00);

(7) For forwarding by mail the notice to the commissioner required by § 67-8-406(a), six dollars ($6.00);

(8) For giving notice to creditors of the qualification of a personal representative, as required by § 30-2-306(a), four dollars ($4.00);

(9) For each notice of claim against estate given as required by § 30-2-314, four dollars ($4.00);

(10) For filing petition for letters of guardianship, issuing process and cost bond, entering order, and issuing original certificate of guardianship, not including fee of the sheriff, sixty dollars ($60.00);

(11) For filing petition for removal of disabilities of minority, and entering order, thirty dollars ($30.00);

(12) For filing petition for removal of disabilities of insanity, filing

affidavits and entering order, thirty dollars ($30.00);

(13) For filing petition for allowing year's support to spouses and entering all orders and reports, thirty dollars ($30.00);

(14) For filing petition to legitimate person, entering order, issuing certificates to be forwarded to the Tennessee office of vital records, maximum, sixty dollars ($60.00);

(15) For filing petition for change of name, and entering order, maximum, sixty dollars ($60.00);

(16) For filing inventory and recording same in inventory record book, ten dollars ($10.00);

(17) For entering each order not otherwise provided for, twelve dollars, ($12.00);

(18) For filing petition for habeas corpus, filing cost bond, issuing process, and entering order, not including fee of the sheriff, sixty dollars ($60.00);

(19)(A) For filing and recording annual settlement of guardians, conservators, administrators and executors and entering order approving settlement only, thirty dollars ($30.00);

(B) Plus for each additional page in excess of three (3) pages, one dollar ($1.00);

(20)(A) For filing and recording final settlement of guardians, conservators, administrators and executors and entering order approving settlement only, thirty-six dollars ($36.00);

(B) Plus for each additional page in excess of three (3) pages, one dollar ($1.00);

(21) For filing petition under the mental health law, compiled in title 33, issuing notices of hearing, entering returns, and entering judgments after hearing, not including fees of sheriff, fifty dollars ($50.00);

(22) For entering order increasing bonds of guardians, conservators, executors and administrators and recording bond, twenty-two dollars, ($22.00);

(23) For issuing each additional copy of letters of administration, testamentary, guardianships and conservatorships, six dollars ($6.00);

(24) For each certificate issued, except under acts of congress, four dollars ($4.00);

(25) For each certificate issued under acts of congress, six dollars ($6.00);

(26) For issuing supplemental certificate showing letters to be in force, six dollars ($6.00);

(27) For making certified copies of documents, per page, two dollars ($2.00), plus for certificate, two dollars ($2.00);

(28) For making photocopies of documents, per page, one dollar ($1.00);

(29) For filing exceptions to claims against estates, mailing notices and entering orders, forty-two dollars ($42.00);

(30) For filing petition for delayed or corrected birth certificate, and entering order, thirty-six dollars ($36.00);

(31)(A) For filing and docketing claims against decedent's estate, each claim, five dollars ($5.00);

(B) For filing release of each claim, two dollars ($2.00);

(32) For filing and docketing petition and order not otherwise provided for, thirty dollars ($30.00);

(33) For issuing summons, subpoenas, citations, writs and notices, including copies of process when required by law, eleven dollars ($11.00);

(34)(A) For filing small estate affidavits, including certifying to one (1) copy, thirty dollars ($30.00);

(B) Each additional copy, two dollars ($2.00);

(35) For filing petition and cost bond in causes involving sale of real estate, eighteen dollars ($18.00);

(36) For filing each answer in causes described in this subsection (b), seven dollars ($7.00);

(37) For filing each report in causes described in this subsection (b), seven dollars ($7.00);

(38) For issuing summons and return in causes described in this subsection (b), including copy of process, eleven dollars ($11.00);

(39) For entering orders pro confesso in causes described in this subsection (b), seven dollars ($7.00);

(40) For issuing and entering order of publication in causes described in this subsection (b), seven dollars ($7.00);

(41) For filing each amended petition in causes described in this subsection (b), ten dollars ($10.00);

(42) For entering order appointing guardian ad litem in causes described in this subsection (b), twelve dollars ($12.00);

(43) For entering final order in each of the causes described in this subsection (b), twelve dollars ($12.00);

(44) Commissions on funds paid into court on confirmation of private sales or other funds paid into the clerk pursuant to court order, and receiving, collecting and paying out the proceeds, a maximum commission of two percent (2%); and

(45) For selling property under decree of court and receiving, collecting, and paying out the proceeds, a commission not to exceed five percent (5%) on the amount of sales up to six thousand dollars ($6,000), and an additional amount to be fixed within such limits, in the discretion of the court.

(c) **Indigent Parties.** No clerk shall be permitted to collect any fee authorized by this section without permitting any person the opportunity to institute a cause of action by means of a pauper's oath in accordance with Rule 29 of the Rules of the Tennessee Supreme Court.

(d) In each new case filed, the clerk may, at the clerk's option, charge an additional fee for data entry in the amount of four dollars ($4.00). Notwithstanding any provision of this subsection (d) to the contrary, any fees increased by this subsection (d) that are assessed against the state or that otherwise represent a cost to the state in criminal cases, child support actions, mental health proceedings, actions under the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1, actions with regard to child care licensing, and collection efforts brought by the department of human services, shall be limited to the amounts chargeable prior to July 1, 2012.

(e) Fee for entering each continuance, five dollars ($5.00).

(f) **Investments.**

(1) The clerks of the various courts have the authority to invest idle funds held under their control, not otherwise invested. Such investments shall be in banks or savings and loan associations operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation. Such investments shall not exceed the amounts that are federally insured, unless otherwise fully collateralized under a written collateral agreement, or unless the funds

are deposited with an institution that is a member of the state collateral pool. The interest on such investments shall become part of the fees of the court clerk, and the clerk shall be required to account for interest received, the same as with other fees received. Any funds authorized to be invested may be invested by the clerk in the local government investment pool administered by the state treasurer.

(2) Nothing in this section shall be construed to relieve the clerks of courts from the responsibility of investing funds held under their control pursuant to court order or under the rules of court. The interest on those investments shall accrue to the benefit of those directed by the court or by agreement of the parties to the litigation.

(3) For investing funds, the clerk shall receive a fee of five percent (5%) of the earnings of such investment.

(g)(1) In delinquent property tax cases, the clerks of the courts shall receive a fee for basic services, to be specified by order of the courts, against each delinquent upon the filing of the complaint. Additionally, the clerk shall receive for other services the statutory fees allowed the clerks under existing laws.

(2) For annually providing to the county trustee the list of delinquent taxpayers mandated by § 67-5-2403, the clerk shall receive a fee of five dollars ($5.00) for each property listed for each year, which shall be added to all the fees and costs in such suits.

(h) **Fees for Electronic Filing and Retrieval of Court Documents.**

(1) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule and is in compliance with technological standards established by the supreme court, clerks may assess a transaction fee for each filing submitted by a party to the case. The transaction fee is limited to a maximum of five dollars ($5.00) per filing up to a maximum of fifty dollars ($50.00) per case. As an alternative to a transaction fee, clerks may assess an annual subscription fee for each registered user of the electronic filing system. The subscription fee must permit the registered user unlimited electronic filing for a one-year period. The one-year period must be defined by the clerk and consistently maintained for all registered users of the electronic filing system. The annual subscription fee cannot exceed three hundred dollars ($300) for each annual period. Each of these fees must be set in an amount necessary to defray the expenses associated with implementation and maintenance of the electronic filing and document retrieval system and must be included in the local court rule authorizing the electronic filing and document retrieval system. Pursuant to subsection (d), these fees are not assessed against the state.

(2) Pursuant to subsection (c), neither the transaction fee nor the subscription fee shall be assessed to a party declared indigent or to that indigent party's legal representative.

(3) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule, the state and any department or contractor of the state are not required to file documents electronically, notwithstanding any local court rule.

(4) Neither the electronic filing transaction fee nor the subscription fee shall limit a clerk's statutory authority to charge subscription fees or transaction fees for obtaining copies of documents maintained by the clerk as part of an electronic filing system of a separate document management system.

8-27-404. First responders killed in line of duty — Coverage of surviving spouse and dependents — Reimbursement by state.

(a) As used in this section:

(1) "Emergency medical technician" includes an emergency medical technician advanced and paramedic;

(2) "First responder" means paid, full-time law enforcement officers, firefighters, and emergency medical technicians who are employed by a local government in this state; and

(3) "Local government" means any county, metropolitan government, municipality, or other political subdivision of this state.

(b) If a local government offers health insurance benefits to first responders, the local government may offer or continue to provide health insurance benefits to the surviving spouse and children, including any unborn child, of a first responder killed in the line of duty for a period not to exceed two (2) years after the death of the first responder.

(c) If a local government offers or provides health insurance benefits in accordance with subsection (b), the local government shall notify the commissioner of finance and administration.

(d) This state shall reimburse any local government that provides health insurance benefits in accordance with this section in an amount equal to that portion of health insurance premiums and benefits for which the local government is responsible under the health insurance policy.

8-30-202. Executive service positions — Preferred service positions — Determination of equivalent positions.

(a) The following positions shall be executive service positions:

(1) Any officer or employee appointed by the governor and all positions in the governor's office;

(2) Any deputy commissioner or equivalent authority in each department or state agency;

(3) Any assistant commissioner or equivalent authority in each department or state agency;

(4) Wardens and directors of correctional facilities identified in title 41 and chief officers of mental health institutes or developmental centers identified in title 33;

(5) The head of a division or major unit within a state agency or a regional director or manager for a state agency, regardless of the title of the position, who, as a substantial part of the position's duties, provides meaningful input on:

(A) The development of policy goals; or

(B) The implementation of policy;

(6) The highest ranking employee of a state agency who has a primary responsibility for one (1) or more of the following functions:

(A) Public information and legislative affairs;

(B) Fiscal, budget and audit matters;

(C) Security or internal affairs;

(D) Information technology systems; and

(E) Human resources;

(7) A clinical director, medical director, or other licensed physician;

(8) A licensed attorney engaged in the practice of law and representing

the state in such capacity;

(9) Any position serving in a confidential capacity to a commissioner, deputy commissioner, assistant commissioner or equivalent authority; and

(10) An employee of the department of mental health and substance abuse services who is a psychiatric hospital assistant superintendent, psychiatric hospital administrator, or psychiatric hospital nurse executive.

(b) An employee in the executive service is an employee at will and serves at the pleasure of the employee's appointing authority.

(c) All other full-time positions in state service shall be in the preferred service.

(d) An employee becomes a member of the preferred service upon successful completion of the probationary period under this chapter.

(e) Preferred service employees include any commissioned member of the department of safety, below the rank of captain, serving in the capacity of executive security, who has been so certified by the commissioner of safety to the commissioner of human resources.

(f) The commissioner shall determine equivalent levels for the purpose of assigning positions not specifically addressed in subsection (a) to the preferred or executive service. Such determination may be based on duties, responsibilities and reporting relationships and shall not be subject to review through any procedure. However, within any department, implementation of this provision shall not jeopardize federal funding resources.

8-30-313. Performance standards and expected outcomes — Job performance evaluations.

(a) In cooperation with appointing authorities, the commissioner shall establish, and may periodically amend:

(1) The standards of performance for employees;

(2) The expected outcomes for employees; and

(3) A system of job performance evaluations based upon the standards described in subdivisions (a)(1) and (2).

(b) Employee performance standards and expected outcomes must be specific, measurable, achievable, relevant to the strategic objective of the employee's state agency or division, and time sensitive.

(c) Each appointing authority shall, at periodic intervals (but at least annually), make, and report to the commissioner, job performance evaluations for the employees in the appointing authority's department or state agency. Upon request by the commissioner, the appointing authority shall provide the information on which the appointing authority relied in evaluating job performance.

(d) The performance evaluations of state service employees shall not be considered public records under § 10-7-503. Nothing in this subsection (d) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(e) Job performance evaluations may be used as follows:

(1) To determine salary increases and decreases within the limits established by the compensation plan developed under this chapter;

(2) As a factor in making or denying promotions; and

(3) As a means of determining employees:

(A) Who are candidates for promotion or transfer; or

(B) Who, because of a low job performance evaluation, are candidates for demotion, dismissal or reduction in force.

(f) [Deleted by 2020 amendment.]

(g) In the process of establishing the system of job performance evaluations, the department shall afford representatives of recognized employee groups an opportunity to present facts, views or arguments related to the proposed system of job performance evaluations.

8-35-253. Additional plan options for political subdivisions to participate in the retirement system.

(a) For purposes of §§ 8-35-253 — 8-35-256, "political subdivision" means any entity authorized to participate in the retirement system pursuant to this part.

(b) Sections 8-35-253 — 8-35-256 are not applicable to:

(1) State officials, including legislative officials elected by the general assembly, or who are employed in the service of, and whose compensation is payable in whole or in part by, the state, including employees under supervision of the state whose compensation is paid, in whole or in part, from federal or other funds;

(2) Employees of state-supported institutions of higher education; or

(3) Teachers as defined by § 8-34-101.

(c) Sections 8-35-253 — 8-35-256 are applicable only to those employees that political subdivisions hire on or after July 1, 2012.

(d) It is the intent of the general assembly that there shall be multiple options for political subdivisions of the state to participate in the retirement system. It is further the intent of the general assembly that any political subdivision already participating in the retirement system on July 1, 2012, may continue to do so without making any changes to its existing plan. Accordingly, the following additional plans are established and available for adoption by political subdivisions of the state on or after July 1, 2012, in accordance with § 8-35-201.

(e) With respect to any of the plans adopted by a political subdivision on or after July 1, 2012, the following provisions are applicable:

(1) A political subdivision may for employees hired on or after July 1, 2012, freeze, suspend or modify benefits, employee contributions, plan terms and design prospectively; provided, that these actions are authorized by an enactment of the general assembly;

(2) Nothing under state law may confer to employees of a political subdivision who are hired on or after July 1, 2012, or after the date the political subdivision authorizes its employees to participate in the retirement system in accordance with this part, whichever is later, an implied right to future retirement benefit arrangements. For such employees, a political subdivision may adjust retirement benefit formulas, cost of living adjustments, if allowable, contribution rates, and retirement eligibility ages in accordance with this section, unless prohibited by federal law;

(3) Employees hired on or after July 1, 2012, or after the date the political subdivision authorizes its employees to participate in the retirement system in accordance with this part, whichever occurs later, may not assert the indefinite continuation of the retirement formulas, contribution rates and eligibility ages in effect at the time of employment;

(4) For all employees hired on or after July 1, 2012, or after the date the political subdivision authorizes its employees to participate in the retirement system in accordance with this part, whichever occurs later, the actuarial value of accrued benefits earned prior to any adjustment pursuant to subdivision (e)(2) above shall remain an enforceable right and may not be reduced without written consent of the employee unless the employee is subject to the forfeiture of the employee's retirement benefits in accordance with § 8-35-124;

(5) Benefits accrued under any of the plans adopted pursuant to §§ 8-35-253 — 8-35-256 shall be in accordance with 26 U.S.C. § 411.

(f) Any political subdivision participating in any of the plans available to it shall be subject to the withdrawal provisions of § 8-35-211 and § 8-35-218. Notwithstanding any other law to the contrary, a political subdivision, by resolution legally adopted and approved by a majority of the membership of the chief governing body of the political subdivision, may change the plan in which it participates, prospectively for employees hired on or after July 1, 2012. Any such resolution shall set forth the effective date of the change; provided, that the date shall be on the first day of any quarter following a minimum of six (6) months' notice to the retirement system.

(g) A political subdivision may change its plan and cost of living election, if allowable by the respective plan, no more frequently than once every two (2) years, but only for those employees hired on or after July 1, 2012, or after the date the political subdivision authorizes its employees to participate in the retirement system in accordance with this part, whichever is later.

(h) Notwithstanding any provision of §§ 8-35-253 — 8-35-256 to the contrary and on or after July 1, 2012, a political subdivision may change its employee contribution rate within a plan as it applies to employees hired on or after July 1, 2012. A political subdivision may change its employee contribution rate no more frequently than once a year, or at such other intervals as the board may determine by rule.

(i) A political subdivision that provided notice of withdrawal pursuant to § 8-35-218 but whose effective withdrawal date is July 1, 2012, is not subject to the above-referenced six (6) months' notice requirement in order to change plans; provided, that the resolution to select an alternate plan is adopted prior to July 1, 2012.

(j) In the event a political subdivision participating in the retirement system changes to any other plan offered by the retirement system pursuant to chapters 34-37 of this title, a person hired by that political subdivision after the effective date of the change will not be eligible for the political subdivision's former plan unless the person participated in the former plan as an employee of that political subdivision before the effective date of the change to the new plan and has not otherwise lost membership in the retirement system. Any employee serving a temporary employment period pursuant to § 8-35-107 on the effective date of the change will be eligible for the plan in effect as of the date the employee becomes eligible to join the retirement system.

8-36-308. Eligibility of police officer or firefighter for early service retirement upon attainment of 25 years of creditable service. [Effective until January 1, 2021. See the version effective on January 1, 2021.]

(a) Notwithstanding this part or any law to the contrary, a police officer or firefighter who is a member of the retirement system, regardless of the police officer's or firefighter's participation in the legacy pension plan, the hybrid plan, or any other alternative plan, is eligible for early service retirement upon attainment of twenty-five (25) years of creditable service. The retirement allowance, as provided under this section, must be computed as the actuarial equivalent of the benefit that would have been payable under a service retirement allowance.

(b) No police officer or firefighter is required to retire pursuant to subsection (a). Subsection (a) applies only to police officers or firefighters who retire on or after January 1, 2020, and does not constitute a change in formula under § 8-36-702.

(c)(1) A political subdivision employing a police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), may require the police officer or firefighter to pay any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201 from the time the police officer or firefighter voluntarily chooses to retire pursuant to subsection (a) until the date that the police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(2) A police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), is entitled to any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the member's service retirement benefit pursuant to § 8-36-201 on the date that the police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(d) Subsection (c) does not apply to a municipality, as that term is defined in § 7-84-103, that is a member of the state retirement system and provides health insurance benefits in accordance with chapter 27, part 6 of this title.

(e) For purposes of this section, "police officer" means a sheriff, sheriff's deputy, or police officer employed by this state, a municipality, or political subdivision of this state whose primary responsibility is the prevention and detection of crime and apprehension of offenders.

8-36-308. Eligibility of emergency medical services personnel, police officer, or firefighter for early service retirement upon attainment of 25 years of creditable service. [Effective on January 1, 2021. See the version effective until January 1, 2021.]

(a) Notwithstanding this part or any law to the contrary, a person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter who is a member of the retirement system, regardless of the person's, police officer's or firefighter's participation in the legacy pension plan, the hybrid plan, or any other alternative plan, is eligible for early service retirement upon attainment of twenty-five (25) years of

creditable service. The retirement allowance, as provided under this section, must be computed as the actuarial equivalent of the benefit that would have been payable under a service retirement allowance.

(b) No person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter is required to retire pursuant to subsection (a). Subsection (a) applies only to emergency medical services personnel as defined in § 68-140-302, police officers or firefighters who retire on or after January 1, 2020, and does not constitute a change in formula under § 8-36-702.

(c)(1) A political subdivision employing a person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), may require the person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter to pay any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201 from the time the person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter voluntarily chooses to retire pursuant to subsection (a) until the date that the person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(2) A person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), is entitled to any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the member's service retirement benefit pursuant to § 8-36-201 on the date that the person in a position covered by the definition of emergency medical services personnel in § 68-140-302, police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(d) Subsection (c) does not apply to a municipality, as that term is defined in § 7-84-103, that is a member of the state retirement system and provides health insurance benefits in accordance with chapter 27, part 6 of this title.

(e) For purposes of this section, "police officer" means a sheriff, sheriff's deputy, or police officer employed by this state, a municipality, or political subdivision of this state whose primary responsibility is the prevention and detection of crime and apprehension of offenders.

8-36-309. Eligibility of correctional officer for early service retirement upon attainment of 25 years of creditable service — "Correctional officer" defined. [Effective on January 1, 2021.]

(a) A correctional officer who is a member of the retirement system, regardless of the correctional officer's participation in the legacy pension plan, the hybrid plan, or any other alternative plan, is eligible for early service retirement after attaining twenty-five (25) years of creditable service. The retirement allowance must be computed as the actuarial equivalent of the benefit that would have been payable under a service retirement allowance.

(b) Subsection (a) does not require a correctional officer to retire. Subsection (a) applies only to a correctional officer who retires on or after January 1, 2021,

and does not constitute a change in formula under § 8-36-702.

(c) A correctional officer who chooses to retire pursuant to subsection (a) is entitled to any insurance coverage otherwise provided to a member who is one hundred percent (100%) vested in the member's service retirement benefit pursuant to § 8-36-201 on the date that the correctional officer would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(d) As used in this section, "correctional officer" means a person who:

(1) Is employed by the department of correction; and

(2) Satisfies the requirements of § 41-1-116.

8-37-214. Back payment or redeposit of contributions — Establishment of lost or withdrawn noncontributory service.

(a) Subject to the approval of the board of trustees, any member who has one (1) year of current membership service or previous service established pursuant to chapter 35, part 2 of this title may make a back payment or redeposit in accordance with the applicable provisions of chapters 34-37 of this title.

(1) A back payment shall be equal to the amount of contributions such member would have made had such member been a member of the state retirement system during the period claimed, plus interest compounded annually from the date the contributions would have been made to the date of payment.

(2) A redeposit shall be equal to the total amount that was previously withdrawn, plus interest compounded annually from the date of withdrawal to the date of payment.

(3) The rate of interest to be used under this section shall be the assumed actuarial interest rate of return established by the board of trustees under § 8-34-505 at the time the payment is made.

(b) Any back payment or redeposit must be made in a lump sum, unless otherwise authorized in § 8-37-220.

(c) Except for payments previously made to establish retirement credit under chapters 34-37 of this title and for payments being made through monthly installments pursuant to § 8-37-220 on May 23, 2005, the interest rate as provided for under this section shall have application in all cases where a different rate of interest was provided for in making back payments or redeposits.

(d) This section shall not apply to any person coming under [former] § 8-34-609(b) [repealed] with respect to the one (1) year membership service requirements; and application of this section shall be subject to § 8-35-111.

(e) A "noncontributory member," as defined in § 8-34-206, who has one (1) year of current membership service may establish withdrawn or lost noncontributory service upon application and repayment of any withdrawn contributions, including contributions made by the employer on behalf of the employee, plus interest at the rate provided for in this section.

(f) Any member applying for prior service must establish all back service before such service is creditable, except as otherwise provided in chapters 34-37 of this title.

(g)(1) Lump sum payments to establish service credit in the Tennessee consolidated retirement system in accordance with this section and chapter 34, part 6 of this title may be funded in whole or in part through amounts

transferred from an eligible retirement account to the Tennessee consolidated retirement system. For the purposes of this subsection (g), amounts transferred from an eligible retirement account means:

(A) Amounts transferred to the Tennessee consolidated retirement system directly from a retirement account that are eligible for rollover treatment under the Internal Revenue Code (26 U.S.C.); or

(B) Lump sum distributions received by a member from a retirement account that are eligible for rollover treatment under the Internal Revenue Code and which are transferred by the member to the Tennessee consolidated retirement system within sixty (60) days following the member's receipt of such lump sum distribution.

(2) Prior to accepting any such transfers, the consolidated retirement system may require the member to establish that the amounts to be transferred meet the requirements of this subsection (g) and the Internal Revenue Code. Amounts transferred shall not be forfeitable for any reason and may not be distributed to the member except as otherwise provided in this chapter and chapters 34-37 of this title.

(3) This subsection (g) will be administered in accordance with the rollover provisions of the Internal Revenue Code.

(h) Any person who desires to establish credit pursuant to chapters 34-37 of this title, shall establish such service under the terms of the retirement system plan that existed at the time the service was established and not at the time the service was rendered, unless the person is still eligible to participate in the former plan and has not lost membership in the retirement system.

8-44-108. Participation by electronic or other means.

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

(1) "Governing body" refers to boards, agencies and commissions of state government, including state debt issuers as defined in this section and municipal governing bodies. For the purpose of this section only, "municipal governing bodies" means only those municipal governing bodies organized under title 6, chapter 18, and having a city commission of three (3) members, and having a population of more than two thousand five hundred (2,500), according to the 2000 federal census or any subsequent federal census;

(2) "Meeting" has the same definition as defined in § 8-44-102;

(3) "Necessity" means that the matters to be considered by the governing body at that meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary; and

(4) "State debt issuers" means the Tennessee state funding board, Tennessee local development authority, Tennessee housing development agency, and Tennessee state school bond authority, and any of their committees.

(b)(1) A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law; provided, that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting.

(2) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by

electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.

(3) If a physical quorum is not present at the location of a meeting of a governing body other than a state debt issuer, the governing body other than a state debt issuer must file such determination of necessity, including the recitation of the facts and circumstances on which it was based, with the office of secretary of state no later than two (2) working days after the meeting. The secretary of state shall report, no less than annually, to the general assembly as to the filings of the determinations of necessity. This subdivision (b)(3) does not apply to the board of regents, the board of trustees of the University of Tennessee, the Tennessee higher education commission, a state university board, or an advisory board for a University of Tennessee system if the advisory board has had a physical quorum present at the location of the advisory board meeting at least one (1) time in the previous twelve (12) months.

(4) Nothing in this section shall prohibit a governing body from complying with § 8-44-109.

(c)(1) Any meeting held pursuant to the terms of this section shall comply with the requirements of the Open Meetings Law, codified in this part, and shall not circumvent the spirit or requirements of that law.

(2) Notices required by the Open Meetings Law, or any other notice required by law, shall state that the meeting will be conducted permitting participation by electronic or other means of communication.

(3) Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

(4) Any member of a governing body not physically present at a meeting shall be provided, before the meeting, with any documents that will be discussed at the meeting, with substantially the same content as those documents actually presented.

(5) All votes taken during a meeting held pursuant to the terms of this section shall be by roll call vote.

(6) A member participating in a meeting by this means is deemed to be present in person at the meeting for purposes of voting, but not for purposes of determining per diem eligibility. However, a member may be reimbursed expenses of such electronic communication or other means of participation.

(d) Notwithstanding this chapter to the contrary, members of an emergency communications district board of directors may participate in meetings by any electronic means approved by such board. A board member who participates in a meeting electronically under this subsection (d) is present for purposes of creating a quorum and voting on matters presented to the board for consideration during the meeting to the same extent as a board member who is physically present at the meeting. Subdivisions (c)(1), (2), and (3) shall apply to meetings held pursuant to this subsection (d).

9-8-307. Jurisdiction — Claims — Waiver of actions — Standard for tort liability — Damages — Immunities — Definitions — Transfer of claims.

(a)(1) The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as defined in § 8-42-101, falling within one (1) or more of the following categories:

(A) The negligent operation or maintenance of any motor vehicle or any other land, air, or sea conveyance. In addition, the state may be held liable pursuant to this subdivision (a)(1)(A) for the negligent operation of state-owned motor vehicles or other conveyances by persons who are not state employees; provided, that such persons operated the vehicle or other conveyance with the permission of a state employee;

(B) Nuisances created or maintained;

(C) Negligently created or maintained dangerous conditions on state controlled real property. The claimant under this subdivision (a)(1)(C) must establish the foreseeability of the risks and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures;

(D) Legal malpractice or health care liability by a state employee; provided, that the state employee has a professional/client relationship with the claimant;

(E) Negligent care, custody and control of persons;

(F) Negligent care, custody or control of personal property;

(G) Negligent care, custody or control of animals. Damages are not recoverable under this section for damages caused by wild animals;

(H) Negligent construction of state sidewalks and buildings;

(I) Negligence in planning and programming for, inspection of, design of, preparation of plans for, approval of plans for, and construction of, public roads, streets, highways, or bridges and similar structures, and negligence in maintenance of highways, and bridges and similar structures, designated by the department of transportation as being on the state system of highways or the state system of interstate highways;

(J) Dangerous conditions on state maintained highways. The claimant under this subdivision (a)(1)(J) must establish the foreseeability of the risk and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures;

(K)(i) Workers' compensation claims by state employees, including injuries incurred by national guard members, Tennessee state guard members, civil air patrol members, civil defense agency personnel and emergency forest firefighters while on active duty and in the course of that duty;

(ii) The commission's payment of these claims shall be in such amount and subject to such limitations as set forth in title 50, chapter 6, except the following provisions shall have no application to workers' compensation claims filed against the state: §§ 50-6-103, 50-6-104, 50-6-106(5), 50-6-118, 50-6-128, 50-6-203(a)-(e) and (g), 50-6-205(b)(2), (b)(3), (c) and (d), 50-6-208, 50-6-210(f), 50-6-211, 50-6-213, 50-6-222, 50-6-225(d), 50-6-229(b), 50-6-233, 50-6-236(c)(2)-(3) and (g), 50-6-237, 50-6-238, 50-6-239, 50-6-244, 50-6-306, 50-6-307, and title 50, chapter 6,

part 4. Section 50-6-114 shall apply to workers' compensation claims against the state, except that the state is authorized to give an employee the option to use accrued sick and annual leave in lieu of receiving temporary total disability benefits. In no event shall an employee receive both accrued sick and annual leave and temporary total disability benefits for the period of temporary total disability. Where appropriate, the claims commission shall be considered the court or tribunal to determine claims within title 50, chapter 6. Payments shall be made and accepted without regard to fault as a cause of the injury or death;

(iii) The subsequent injury and vocational recovery fund shall have no application to workers' compensation claims against the state of Tennessee. Payment of compensation shall not be considered a binding determination of the obligations of the employer as to future compensation payments. Likewise, the acceptance of compensation by the officer or employee is not considered a binding determination of the obligations of the employer as to future compensation payments; nor shall the acceptance of compensation by the officer or employee be considered a binding determination of the employer's rights;

(iv) The interested parties have the right to settle all matters of compensation between themselves, but all settlements, before the settlements are binding on either party, shall be reduced to writing and shall be approved by the claims commissioner before whom the claim for compensation is entitled to be heard, or to a workers' compensation judge pursuant to § 50-6-240. Any proposed settlement presented to a claims commissioner for approval pursuant to this subdivision (a)(1)(K)(iv) shall be examined by the claims commissioner to determine whether the officer or employee is receiving, substantially, the benefits provided by the Workers' Compensation Law, compiled in title 50, chapter 6. To this end, the commissioner may call and examine witnesses. Upon such settlement being approved, an order shall be rendered by the commissioner and duly entered by the clerk;

(v) In case any officer or employee of the state of Tennessee for whose injury or death compensation is payable under the Workers' Compensation Law shall at the time of injury be employed or paid jointly by two (2) or more employers subject to such law, such employers shall contribute to payment of such compensation in a proportion of their several wage liability to such officer or employee. The state of Tennessee is considered the primary employer and the determination of workers' compensation paid shall be pursuant to the procedures provided for state officers and employees. If one (1) or more, but not all, of such officers and employees are subject to the Workers' Compensation Law and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject shall be to pay the proportion of the entire compensation which their portion of the wage liability bears to the wages of the officer or employee; provided, that nothing in this section shall prevent any agreement between the different employers between themselves as to the distribution of the ultimate burden of such compensation. The state of Tennessee shall pay the officer or employee under the Workers' Compensation Law and seek contribution from other contributing employers. The state of Tennessee has a right of action in the courts against the joint employers;

(vi) Notwithstanding § 9-8-402(d) or any other law to the contrary, upon motion of the employee, the claims commission may, prior to the benefits review conference or any final hearing on the claim, order the state to initiate, continue or reinstate temporary disability benefits or to provide medical benefits to the employee pending a final decision in the case, if the claims commission determines that such an order would be appropriate in light of available information. If the commission determines it appropriate to order the state to provide medical benefits pursuant to this subdivision (a)(1)(K)(vi), the commission's authority shall include, but not be limited to, the authority to order specific medical treatment recommended by the treating physician, and the authority to require the state to provide the appropriate panel of physicians to the employee, including a panel of appropriate specialists. With respect to the determination of whether to order the payment of temporary disability or medical benefits, the claims commission shall decide such issues solely on the basis of the information available to the commission, without favor or presumption for or against either party;

(L) Actions for breach of a written contract between the claimant and the state which was executed by one (1) or more state officers or employees with authority to execute the contract; provided, that the group insurance agreements created pursuant to §§ 8-27-202 and 8-27-302 shall be considered contracts for purposes of this subsection (a) in order for the commission to determine insurance claims which have been previously rejected by the state insurance committee or the local education insurance committee;

(M) Negligent operation of machinery or equipment;

(N) Negligent deprivation of statutory rights created under Tennessee law, except for actions arising out of claims over which the civil service commission has jurisdiction. The claimant must prove under this subdivision (a)(1)(N) that the general assembly expressly conferred a private right of action in favor of the claimant against the state for the state's violation of the particular statute's provisions;

(O) Claims for the recovery of taxes collected or administered by the state, except any tax collected or administered by the commissioner of revenue, any tax collected or administered by the commissioner of commerce and insurance pursuant to title 56, and any unemployment insurance tax collected or administered by the commissioner of labor and workforce development;

(P) Claims for the loss, damage or destruction of the personal property of state employees based on § 9-8-111;

(Q)(i) Claims for injuries incurred by persons where such injury occurred while the person was a passenger in a motor vehicle operated by a state employee while such employee was acting within the scope of employment. The claimant has the burden of proving the following:

(a) The injuries suffered by the claimant occurred as a result of an accident involving a motor vehicle operated by a non-state employee and a motor vehicle operated by a state employee who, at the time of the accident, was acting within the scope of employment;

(b) The proximate cause of the accident was the negligent operation of the motor vehicle operated by the nonstate employee;

(c) The claimant has been unable to recover any damages from the negligent party because the negligent party was uninsured or underinsured at the time of the accident and is otherwise financially incapable of fully compensating the claimant;

(d) The claimant has been unable to recover sufficient amounts under the Workers' Compensation Law or from any other public or private source, including the claimant's uninsured motorist's insurance policy, to fully compensate for the injuries suffered; and

(e) The claimant's presence in the motor vehicle operated by the state employee was for the benefit of the state, except that this requirement shall be waived for persons who are injured while a passenger in a state-owned motor vehicle used in the state employee van pool program authorized in § 4-3-1105(19);

(ii) Notwithstanding subsection (e), awards under this subdivision (a)(1)(Q) are limited to amounts recoverable under subdivision (a)(1)(K). Awards under this subdivision (a)(1)(Q) shall not be considered payments under an uninsured motorists insurance policy as provided for in title 56, chapter 7, part 12;

(R) Claims for libel and/or slander where a state employee is determined to be acting within the scope of employment;

(S)(i) Claims for compensation filed under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, and § 40-24-107. Claims filed pursuant to this subdivision (a)(1)(S) shall be determined in accordance with title 29, chapter 13;

(ii) Notwithstanding title 29, chapter 13, to the contrary, the claims commission has exclusive jurisdiction to determine all claims filed for compensation under the Criminal Injuries Compensation Act in accordance with title 29, chapter 13; provided, that this exclusive jurisdiction shall apply only to claims for compensation filed on or after January 1, 1987. At the request of the claimant and with the consent of the court, any claim filed prior to January 1, 1987, may be transferred to the claims commission for determination of the claim;

(T) Actions based on § 69-1-201;

(U) Actions based on violations of the requirements of procurement of commodities or services under title 71, chapter 4, part 7;

(V) Unconstitutional taking of private property, as defined in § 12-1-202, including intentional state governmental action resulting in a taking other than the taking of real property and real property rights for the state's system of highways or the state's system of interstate highways; and

(W) Claims arising out of the billing, collection, or remittance of 911 surcharges.

(2) No item enumerated in this subsection (a) shall be interpreted to allow any claim against the state on account of the acts or omissions of persons, partnerships, corporations or other entities licensed or regulated by agencies of the state, notwithstanding any negligence committed by the state in the course of performing licensing or regulatory activities. No item enumerated in this subsection (a) shall be interpreted to allow any claims against the state arising out of or resulting from:

(A) The issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization, except as provided for in subdi-

vision (a)(1)(V);

(B) An inspection, or by reason of making an inadequate or negligent inspection of any property, except as provided for in subdivision (a)(1)(I);

(C) Riots, unlawful assemblies, public demonstrations, mob violence and civil disturbances; except that the claims commission shall have jurisdiction over riots and disturbances occurring on or after January 1, 1985, by persons who are in the care, custody and control of the state where the state's negligence is the proximate cause of the riot or disturbance which, in turn, is the proximate cause of the injury to the claimant or damage to the claimant's personal property;

(D) Acts of a defendant serving a sentence under probation coupled with periodic confinement pursuant to § 40-35-307; work release pursuant to § 40-35-315; on furlough pursuant to § 40-35-316; a community-based alternative to confinement pursuant to title 40, chapter 36; or parole pursuant to § 40-35-504, unless the defendant is in the custody of or under the control or supervision of a jailer, corrections officer, law enforcement officer, or other agent of the state, or unless the state was negligent in its release of the defendant; provided, that the state is liable for reasonable medical care for inmates under work release, furlough, or community-based alternatives to confinement, although the inmates are not physically in the custody and control of and under the direct personal control of a jailer, corrections officer or other law enforcement officer. The state, county, municipality or political subdivision which may employ the inmate but does not have direct supervision and control of the inmate's work release, confinement or community-based alternative to confinement is not liable for the inmate's reasonable medical treatment for injuries incurred while on such work release, community-based alternative, or other work detail. Nothing in this subdivision (a)(2)(D) shall be construed as changing the general law of comparative fault. Nothing in this subdivision (a)(2)(D) shall be construed as changing the liability for injuries caused by a person or agency due to that person's or agency's own negligence. Nothing in this subdivision (a)(2)(D) shall be construed as changing the general law on liability in subdivision (a)(1)(E); or

(E) Any failure or malfunction occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted and reasonably implemented complying with generally accepted computer and information system design standards. Notwithstanding any other provision of the law, nothing in this subdivision (a)(2)(E) shall in any way limit the liability of a third party, direct or indirect, who is negligent. Further, a person who is injured by the negligence of a third party contractor, direct or indirect, shall have a cause of action against the contractor.

(3) It is the intent of the general assembly that the claims commission shall only hear claims arising on or after January 1, 1985. All claims arising prior to January 1, 1985, are to be governed by the law as it was prior to that date. For purposes of jurisdiction, a claim for recovery of taxes is deemed to

arise on the date of the payment under protest. However, for any claim falling within the jurisdiction of the claims commission as determined by this subdivision (a)(3) and arising before January 1, 1985, the board of claims may authorize the chair of the board to transfer any claim or classes of claims to the claims commission. No claims shall be transferred where the claimant objects. Transferred claims are subject to the same requirements and procedures as claims originally filed with the claims commission. It is the intent of the general assembly that the jurisdiction of the claims commission be liberally construed to implement the remedial purposes of this legislation. It is the intent of the general assembly that no distinctions be made between officers and employees of the state under this legislation. The availability of state records and documents concerning claims is subject to the same discovery defenses as are available to other parties. The portion of the records in possession of the division of claims and risk management containing the amount of funds reserved for each claim for the risk management fund is confidential and not subject to § 10-7-503, until the final adjudication of the claim.

(b) Claims against the state filed pursuant to subsection (a) shall operate as a waiver of any cause of action, based on the same act or omission, which the claimant has against any state officer or employee. The waiver is void if the commission determines that the act or omission was not within the scope of the officer's or employee's office or employment.

(c) The determination of the state's liability in tort shall be based on the traditional tort concepts of duty and the reasonably prudent person's standard of care.

(d) The state will be liable for actual damages only. No award shall be made unless the facts found by the commission would entitle the claimant to a judgment in an action at law if the state had been a private individual. The state will not be liable for punitive damages and the costs of litigation other than court costs. The state will not be liable for willful, malicious, or criminal acts by state employees, or for acts on the part of state employees done for personal gain. The state may assert any and all defenses, including common law defenses, which would have been available to the officer or employee in an action against such an individual based upon the same occurrence. The state may assert any absolute common law immunities available to the officer or employee, however, good faith common law immunity may not be asserted. If the claimant is successful with any claim filed with the claims commission after January 1, 1985, the state shall pay such interest as the commissioner may determine to be proper, not exceeding the legal rate as provided in § 47-14-121. In contract actions, interest may be awarded, but if the rate of interest is provided in the contract, the award of interest shall be at that rate.

(e) For causes of action arising in tort, the state shall only be liable for damages up to the sum of three hundred thousand dollars ($300,000) per claimant and one million dollars ($1,000,000) per occurrence. The board of claims is authorized to purchase insurance, on a per claimant or per occurrence basis, for any class of claim. Any recovery covered by such a policy may exceed the monetary limits of this subsection (e), but only up to the policy limit.

(f) No language contained in this chapter is intended to be construed as a waiver of the immunity of the state of Tennessee from suit in federal courts guaranteed by the eleventh amendment to the Constitution of the United States.

(g) No language contained in this chapter is intended to be construed to

abridge the common law immunities of state officials and employees.

(h) State officers and employees are absolutely immune from liability for acts or omissions within the scope of the officer's or employee's office or employment, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain. For purposes of this chapter, "state officer" or "employee" has the meaning set forth in § 8-42-101(3).

(i)(1) Claims that were timely filed against a state employee with a court of competent jurisdiction and that fall within the jurisdiction of the claims commission found in subdivision (a)(1)(A) shall be dismissed as to the state employee and transferred to the division of claims and risk management to proceed as a claim against the state; provided, that the state employee alleged to have acted negligently was, at the time of the incident giving rise to the claim, operating a private motor vehicle within the scope of the employee's office or employment, and the employee's action or inaction was not willful, malicious, criminal or done for personal gain. When a motion for transfer is made, the court shall require that notice be given the attorney general and reporter and the state shall be permitted to intervene and respond to the motion. Upon such transfer, the claim shall be considered timely filed with the division of claims and risk management and the claims commission. Such transfer shall be effected upon an order of dismissal and transfer from the court. Any such transfer must be made within one (1) year of the filing of the original complaint with the court or on or after April 22, 1998, whichever is later. Such claims shall be considered by the division of claims and risk management and the claims commission, as provided by law. This subsection (i) shall be effective for causes of action arising on or after July 1, 1995, pending on or after April 22, 1998, and causes of action arising on or after April 22, 1998.

(2) Claims which are transferred to the division of claims and risk management pursuant to this subsection (i) shall be investigated by the division of claims and risk management, acted upon or transferred by the division, and acted upon by the claims commission pursuant to the same statutory requirements and procedures as apply to claims originally filed with the division of claims and risk management.

(j) **[Repealed effective July 1, 2022. See Compiler's Note.]** Notwithstanding any other provision of this chapter to the contrary, the state does not waive its sovereign immunity for any loss, damage, injury, or death arising from COVID-19, as defined in § 29-34-802(a), unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission of the state or an employee or agent of the state constituting gross negligence. The requirements of § 29-34-802(c) apply to any such cause of action when applicable.

12-3-102. Exempt agencies and purchases.

(a) Procurements and contracts by and for the following state governmental entities shall be exempt from the operation of this chapter:

(1) The legislative branch;

(2) The judicial branch;

(3) The board of trustees of the University of Tennessee system, the Tennessee board of regents system, the state university boards, the Tennessee higher education commission, and the Tennessee student assistance

corporation;

(4) Contracts advertised and awarded by the state building commission pursuant to § 4-15-102. If there is a question whether a contract or procurement requires state building commission or central procurement office approval, the chief procurement officer and the state architect shall determine in writing the procurement method or the contract form that is in the best interest of the state. Any such agreement reached by the chief procurement officer and the state architect shall be subject to the approval of the comptroller of the treasury;

(5) Construction and engineering contracts entered into by the department of transportation pursuant to title 54, chapter 5;

(6) Contracts for procurement of services in connection with the issue, sale, purchase, and delivery of bonds, notes and other debt obligations or the administration, safekeeping, and payment after delivery of such debt obligations by the state or any of its agencies;

(7) Contracts for appraisal, relocation or acquisition services related to the acquisition of land that are entered into by the department of transportation pursuant to title 54, chapter 5; and

(8) Administrative contracts for specific service signs pursuant to title 54, chapter 5, part 11, shall be awarded to the vendor who offers the lowest responsible response. The basis of all responses shall be the least cost to the retail user of the signs. All administrative contracts shall be awarded on an objective, competitive basis pursuant to rules and regulations promulgated by the department of transportation.

(b) Notwithstanding subsection (a), any or all state entities exempt from the requirements of this part, as well as any private nonprofit institution of higher education chartered in this state, are authorized to procure goods or services under this chapter through the central procurement office.

12-3-303. Execution of contracts by executive branch state agencies — Approval by chief procurement officer — Contracts for rendering public relations, advertising or related services — Applicability to various contracts — Posting of contracts on state procurement office's website.

(a) Any contract for goods or services entered into by an executive branch state agency shall be executed by the head of such state agency and approved by the chief procurement officer. Notwithstanding any other law to the contrary, approval of the chief procurement officer and no other officer of the state government is necessary, except as follows:

(1) Contracts for financial management or accounting services shall also be approved by the commissioner of finance and administration;

(2) Contracts for auditing services shall also be approved by the comptroller of the treasury;

(3) Contracts for engineering or architectural services shall also be approved by the office of the state architect;

(4) Contracts of the Tennessee higher education commission, the Tennessee student assistance corporation, and all state colleges and universities operated by the board of trustees of the University of Tennessee, the board of regents, and the state university boards do not need to be approved by the chief procurement officer; however, these contracts are subject to applicable provisions of the rules and policies promulgated by the central procurement

office and approved by the procurement commission; or

(5) Those procurements, contracts, grants, and other documents subject to approval by the comptroller of the treasury pursuant to § 4-56-108 or otherwise required by law.

(b) All contracts for rendering public relations, advertising or related services entered into by or on behalf of agencies and departments of the executive branch of state government shall be restricted to provide for only the rendition of media advertising and related design and production services, except as otherwise determined in accordance with policies established by the procurement commission.

(c)(1) This section shall not apply to construction and engineering contracts entered into by the department of transportation pursuant to title 54, chapter 5, or to contracts for projects required by law to be approved by the state building commission.

(2) This section shall not apply to contracts to hire additional counsel for the state or any of its departments, institutions or agencies; provided, that all such contracts shall be made in accordance with § 8-6-106, except for legal counsel employed pursuant to any statute concerning the issuance and sale of bonds, notes, or other obligations.

(3) This section shall not apply to contracts for procurement of services in connection with the issue, sale, purchase, and delivery of bonds, notes and other debt obligations or the administration, safekeeping, and payment after delivery of such debt obligations by the state or any of its agencies.

(d) All contracts for goods and services shall be posted on the state procurement office's website, at a minimum providing the following information, as applicable, regarding each request for goods or services:

(1) Business unit or agency requesting;

(2) Contract number;

(3) Brief description of the contract;

(4) Type of contract;

(5) Commencement date of the contract;

(6) Ending date of the contract;

(7) Maximum liability; and

(8) Status of the contract.

13-7-602. Part definitions.

As used in this part:

(1) "Effectively prohibit" means a local governing body acts or fails to act in a manner that prevents a property owner from using the owner's property as a short-term rental unit after reasonable compliance with generally applicable local laws;

(2) "Generally applicable local law" means an ordinance, resolution, regulation, rule, or other requirement of any type other than zoning enacted, maintained, or enforced by a local governing body that applies to all property or use of all property and does not apply only to property used as a short-term rental unit;

(3) "Local governing body" means the legislative body of a city, municipality, county, or other political subdivision of this state that has authority to enact a zoning ordinance, resolution, regulation, rule, or other requirement of any type regarding land use in its jurisdiction;

(4) "Prohibit" means to forbid or ban the operation of short-term rental units, either permanently or temporarily, within a local governing body's jurisdiction, portion of the local governing body's jurisdiction, or a portion of an owner's property;

(5) "Property" means a tract of land as recorded with the register of deeds office of the county where the property is located;

(6) "Provider" means any person engaged in renting a short-term rental unit and includes an owner of a residential unit that is made available through a vacation lodging service as that term is defined in § 62-13-104;

(7) "Residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

(8) "Short-term rental unit" or "unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502;

(9) "Transferred" means:

(A) An interest in real estate was conveyed on or after May 17, 2018; and

(B) The conveyance is exempt from the recordation tax pursuant to § 67-4-409(a)(3)(A)(i) and (a)(3)(A)(i), (E), and (F); and

(10) "Used as a short-term rental unit" means the property was held out to the public for use as a short-term rental unit, and:

(A) For property that began being held out to the public for use as a short-term rental unit within the jurisdiction of a local governing body that required a permit to be issued or an application to be approved pursuant to an ordinance specifically governing short-term rental units prior to using the property as a short-term rental unit, a permit was issued or an application was approved by the local governing body for the property; or

(B) For property that began being held out to the public for use as a short-term rental unit within the jurisdiction of a local governing body that did not require a permit to be issued or an application to be approved pursuant to an ordinance specifically governing short-term rental units, the provider remitted taxes due on renting the unit pursuant to title 67, chapter 6, part 5 for filing periods that cover at least six (6) months within the twelve-month period immediately preceding the later of:

(i) May 17, 2018; or

(ii) The effective date of an ordinance, resolution, regulation, rule, or other requirement by a local governing body having jurisdiction over the property requiring a permit or an application to be approved pursuant to an ordinance specifically governing short-term rental units.

13-20-202. Powers of housing authority as to blighted areas.

(a) Any housing authority now or hereafter established under and pursuant to this chapter, including any municipal housing authority whether created under and pursuant to such law or of any special statute, may carry out any

undertaking hereinafter called a "redevelopment project" and to that end may:

(1) Acquire blighted areas;

(2) Acquire other real property for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight;

(3) Acquire real property where the condition of the title, the diverse ownership of the real property to be assembled, the street or lot layouts, or other conditions, prevent a proper development of the property and where the acquisition of the area by the authority is necessary to carry out a redevelopment plan or urban renewal plan;

(4) Acting on its own or through third parties engaged to act on the housing authority's behalf:

(A) Clear any areas acquired, including relocation of utility facilities and demolition, in whole or in part, of buildings and improvements thereon and removal or remediation of any environmental contamination;

(B) Install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation and development of sites for uses in accordance with a redevelopment plan or urban renewal plan;

(C) Install, construct, or reconstruct parks, public open spaces, public playgrounds, pedestrian ways and all parking structures regardless of use in accordance with a redevelopment plan or urban renewal plan;

(D) Pay expenses for relocation, administrative costs, planning and engineering costs, energy efficiency costs and legal expenses associated with exercising the powers granted in this section or with carrying out a redevelopment plan or urban renewal plan;

(E) Pay the design costs, commissioning costs and fees and costs of required documentation associated with meeting the requirements of Leadership in Energy and Environmental Design (LEED), Green Globes or other similar programs, as well as greening costs and energy modeling costs for certification by such programs of new construction, existing buildings and other projects;

(F) Install, construct, add to, improve or reconstruct public infrastructure, including, but not limited to, water, solid waste, transportation, telecommunication, energy use capture and transmittal, power systems and alternative power systems or alternate power projects that incorporate principles of urban sustainability, eco-efficiency and global sustainable development; and

(G) Take all other necessary actions designed to further the goals and local objectives articulated in the redevelopment plan or urban renewal plan, including, but not limited to, the assistance, undertaking, or development of projects that promote affordable rental housing, including mixed-income rental housing, primarily for persons of low and moderate income, as determined by the board of commissioners of the authority. The authority may exercise all powers with respect to such projects in the same manner as mixed-finance projects for persons of low income as provided in part 1 of this chapter;

(5) Sell or lease land so acquired for uses in accordance with the redevelopment plan or urban renewal plan;

(6) Accomplish a combination of the foregoing to carry out a redevelopment plan or urban renewal plan;

(7) Have and enjoy all the rights, powers, privileges and immunities granted to housing authorities under such law, and/or under any special act

by which the authority may have been created, and/or any other provisions of law relating to slum clearance and housing projects for persons of low income; and

(8)(A) Borrow money upon its bonds, notes or other evidences of indebtedness to finance any of the foregoing and to carry out a redevelopment plan or urban renewal plan and secure the same by pledges of its income and revenues generally or its income and revenues from a particular redevelopment project or projects, including moneys received by any authority and placed in a special fund or funds pursuant to tax increment financing provisions contained in a redevelopment plan or urban renewal plan, or from grants or contributions from any government, or in any other manner;

(B) Nothing contained in § 13-20-113, § 13-20-413 and/or in any special municipal housing authorities law shall be construed as limiting the power of an authority, in the event of default by a purchaser or lessee of land in a redevelopment plan or urban renewal plan, to acquire property and operate it free from restrictions contained in §§ 13-20-113 and 13-20-413, or in any special statute as aforementioned relating to tenant selection or operation without profit.

(b) For the purposes of this section and the implementation of redevelopment districts as delineated in §§ 13-20-201 — 13-20-205, community development agencies as defined in the Community Development Act of 1974, as amended, of municipalities, will also be considered as housing authorities and will have vested in them the powers as delineated in this section in which housing authority redevelopment powers are vested, as long as public notice required in § 13-20-203 is provided. This subsection (b) applies only in counties with populations greater than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, and in counties with populations greater than one hundred thirty-four thousand seven hundred (134,700) and less than one hundred thirty-four thousand eight hundred (134,800), according to the 2000 federal census or any subsequent federal census.

(c) For the purposes of this part, a development authority created by private act and designated by a municipality as its housing and redevelopment authority for purposes of this part shall also be considered a housing authority and shall have the power to enter into an economic development agreement as defined in § 4-17-302(2) and the powers delineated in this part, in which housing authority redevelopment powers are vested, as long as public notice required in § 13-20-203 is provided; provided, however, a municipality shall not so designate a development authority if the housing authority, if any, created by the municipality has ever issued any obligations secured by tax increment revenues and in any event such designation shall only be effective if the municipality shall first obtain the written consent of the housing authority, if any, created by the municipality. Any redevelopment plan previously prepared by a development authority created pursuant to any such private act and approved by a municipality shall be deemed authorized by this subsection (c) and shall be deemed a valid redevelopment plan for purposes of this part.

13-23-121. Issuance of bonds and notes — Maximum aggregate amount — Mortgage revenue bonds.

(a) The agency shall not issue bonds and notes under this part in an aggregate principal amount at any one (1) time outstanding exceeding four billion dollars ($4,000,000,000), excluding bonds or notes for the payment or redemption of which there has been or will be set aside and held in trust either moneys or direct and general obligations of, or obligations guaranteed by, the United States, or obligations secured by such obligations, or any combination thereof, which are or will be sufficient to pay when due the principal or applicable redemption price and all accrued interest thereon and, if such bonds or notes are to be redeemed, for which notice of redemption has been given or satisfactory provision has been made for the giving of such notice. For purposes of computing the aggregate principal amount of outstanding bonds at any one (1) time, bonds which bear no stated interest rate and for which no semiannual interest payments are to be made shall be considered to be issued and outstanding in a principal amount equal to the price paid to the agency for such bonds as of the date of their sale. For purposes of determining the price paid to the agency for such bonds, the amount per five thousand dollars ($5,000) maturity amount which is shown on the official statement of each issue and which is approved by the agency, and its bond counsel, shall be used.

(b) The fixing of the statutory maximum in this section shall not be construed as constituting a contract between the agency and the holders of its bonds and notes that additional bonds and notes may not be issued subsequently by the agency in the event that such statutory maximum shall subsequently be increased by law.

(c) The agency will distribute funds from its programs in a manner which provides substantially proportional access to this limited resource to the three (3) grand divisions as established by title 4, chapter 1, part 2, and which will provide the optimum benefit to the citizens of the state.

15-2-101. Additional special observance days.

Each year the following days are days of special observance: January 19, “Robert E. Lee Day”; February 12, “Abraham Lincoln Day”; March 15, “Andrew Jackson Day”; June 3, “Memorial Day” or “Confederate Decoration Day”; July 13, “Nathan Bedford Forrest Day”; and November 11, “Veterans’ Day.” The people of this state are invited to observe the days in schools, churches, and other suitable places with appropriate ceremonies expressive of the public sentiment befitting the anniversary of such dates.

15-2-102. Mothers’ Day.

The second Sunday of May of each year is to be especially observed as “Mothers’ Day.”

15-2-104. Family Day.

The last Sunday in August of each year is to be especially observed as “Family Day,” to bring attention and honor to the importance of the family as the basis of our state and nation.

15-2-105. Franklin D. Roosevelt Day.

January 30 of each year is to be observed as "Franklin D. Roosevelt Day," to honor and recognize President Roosevelt as the father of the civilian conservation corps. Such day shall not be a legal holiday as defined in § 15-1-101.

15-2-106. American Indian Day.

(a) The fourth Monday in September of each year is to be especially observed in Tennessee as "American Indian Day," and that on this day schools, clubs, and civic and religious organizations are encouraged to recognize the contributions of American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between American Indians and the non-Indian people of this state.

(b) The people of this state are invited and urged to observe American Indian Day with suitable ceremony and fellowship.

(c) The department of education shall provide, within the limits of funds available for such purpose, information available to all people of this state regarding American Indian Day.

15-2-108. Scottish, Scots-Irish Heritage Day.

June 24 of each year is to be observed as "Scottish, Scots-Irish Heritage Day," to honor and recognize the contributions people of Scottish and Scots-Irish heritage made to the founding and development of Tennessee. Such day shall not be a legal holiday as defined in § 15-1-101.

15-2-109. Workers' Memorial Day.

April 28 of each year is to be observed as "Workers' Memorial Day," to honor and recognize workers killed and injured on the job. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-110. John Sevier Day.

June 23 of each year shall be observed as "John Sevier Day," to honor and recognize John Sevier for his important role in Tennessee attaining statehood and his meritorious service as the state's first governor. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-111. Harriet Tubman Day.

March 10 of each year shall be observed as "Harriet Tubman Day," to honor and recognize Harriet Tubman for her important role in the history of Tennessee and the United States as an abolitionist and champion of equal rights for all people. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-112. Bluegrass Day.

The fourth Saturday in May of each year shall be observed as "Bluegrass Day," to honor and recognize bluegrass music, its great beauty and artistry, and its prominent place in Tennessee's proud heritage and present day economy. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-113. Emancipation Day.

August 8 of each year shall be observed as "Emancipation Day," to honor and recognize the celebration of the action of Andrew Johnson in freeing Andrew Johnson's personal slaves on August 8, 1863, and the significance of emancipation in the history of Tennessee. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-114. Patriots' Day.

April 19 of each year shall be observed as "Patriots' Day," to honor and recognize the opening events of the War of the Revolution and the struggle through which the nation passed in its early days. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-115. Wilma Rudolph Day.

June 23 of each year shall be observed as "Wilma Rudolph Day," to honor and recognize the late Wilma Rudolph for her inspirational example in overcoming childhood disability to excel as an athlete, her numerous athletic accomplishments, including winning three gold medals at the 1960 Olympics, her courage in combating segregation, and her humanitarian work as a United States goodwill ambassador. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-116. Vietnam Veterans Day.

March 29 of each year shall be observed as "Vietnam Veterans Day," to honor and recognize the veterans who served during the Vietnam War. State agencies, interested organizations and groups and individuals are encouraged to fly the United States flag accompanied by the MIA/POW flag on this day. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-117. Towing and Recovery Week.

The week that includes the third Saturday in September shall be observed as "Towing and Recovery Week" in this state, to honor the thousands of operators, manufacturers, suppliers, and other dedicated men and women who serve our state's motoring public with courtesy and courage while promoting safety on our roads and highways. This week shall not be a legal holiday as defined in § 15-1-101.

15-2-118. Tennessee and United States Constitutions Day.

September 17 of each year shall be observed as "Tennessee and United States Constitutions Day," to honor and commemorate the creation and signing of the supreme laws of our state and land on June 1, 1796, and September 17, 1787. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-119. Firefighters' Memorial Day.

October 9 of each year shall be observed as "Firefighters' Memorial Day," to honor and recognize firefighters in this state for their courageous and dedicated service. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-120. Gold Star Mother's Day.

The last Sunday in September of each year shall be observed as "Gold Star Mother's Day," to honor Tennessee's Gold Star Mothers for their courage, resolve and strength in the face of great personal loss. State agencies, interested organizations and groups and individuals are encouraged to fly the United States flag on this day as a public expression of our state's sympathy and respect for our Gold Star Mothers. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-121. Volunteer Firefighters Week — Rescue Squad Week.

(a) The first full week in March of each year shall be observed as "Volunteer Firefighters Week," to honor and recognize volunteer firefighters in this state for their courageous and dedicated service. This week shall not be a legal holiday as defined in § 15-1-101.

(b) The third full week in May of each year shall also be observed as "Rescue Squad Week," to honor and recognize rescue squad personnel in this state for their tireless and invaluable service. Such week shall not be a legal holiday as defined in § 15-1-101.

15-2-122. Tennessee National Guard Day.

March 3 of each year shall be observed as "Tennessee National Guard Day," to honor and recognize Tennessee national guard personnel for their service and sacrifices in defense of our nation and for responding to domestic missions within the borders of our state. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-123. Lymphedema Awareness Week.

The third week of June each year shall be observed as "Lymphedema Awareness Week," to encourage all medical facilities in the state to dedicate more time, energy, and funding to the diagnosing and treatment of the disease. This week shall not be a legal holiday as defined in § 15-1-101.

15-2-124. Transverse Myelitis Awareness Day.

June 6 of each year shall be observed as "Transverse Myelitis Awareness Day," to raise public awareness about this debilitating neurological spinal cord disorder. This day shall not be a legal holiday, as defined in § 15-1-101.

15-2-125. Police Memorial Day.

May 11 of each year shall be observed as "Police Memorial Day," to honor and recognize law enforcement officers in this state for their dedication and selfless service. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-126. Agriculture Literacy Week.

The week that includes the third Thursday in November each year shall be designated "Agriculture Literacy Week" in Tennessee, to promote agricultural literacy and the need to educate students about the importance of agriculture to our state and our nation. This week shall not be a legal holiday as defined in § 15-1-101.

15-2-127. Tennessee Missing Children's Day.

March 4 of each year shall be observed as "Tennessee Missing Children's Day," to raise public awareness about child abduction and sexual exploitation and to promote public education efforts as to appropriate protective measures, and ways to respond and seek help from law enforcement, social services, and the National Center for Missing and Exploited Children. This day shall not be a legal holiday, as defined in § 15-1-101.

15-2-128. Tennessee Rural Mayor's Day.

The first Monday of October of each year shall be observed as "Tennessee Rural Mayor's Day," to honor and recognize mayors of small cities in this state for their tireless work and dedicated service to their respective communities. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-129. Tennessee Songwriters Week.

The last full week of February each year must be observed as "Tennessee Songwriters Week," to promote Tennessee's musical heritage by recognizing the contributions of past and present songwriters to this state.

15-2-130. Febb Burn Day.

August 18 of each year shall be observed as "Febb Burn Day," to honor Febb Burn's role in the enfranchisement of women. This day shall not be a legal holiday as defined in § 15-1-101.

15-2-131. Financial Literacy Week.

The week beginning on the first Sunday in April each year is designated "Financial Literacy Week" in Tennessee, to promote financial literacy and the need to educate Tennesseans about the importance of personal financial health to Tennessee's future prosperity.

15-2-132. Mrs. Rosa L. Parks Day.

December 1 of each year is to be observed as "Mrs. Rosa L. Parks Day" to honor and recognize Mrs. Rosa L. Parks for her important role in the civil rights movement in the United States. This day is not a legal holiday as defined in § 15-1-101.

15-2-133. Post-Traumatic Stress Injury Awareness Day.

June 27 of each year is to be observed as "Post-Traumatic Stress Injury Awareness Day," to promote awareness of persons suffering from post-traumatic stress injury.

15-2-134. Women's Suffrage Day.

August 18 of each year is to be observed as "Women's Suffrage Day."

16-1-105. Holding court outside of courthouse or in courthouse or room outside county seat.

(a)(1) If for any cause, in the opinion of the court deemed sufficient, it is impracticable or inconvenient for any court to hold its session at the courthouse, or place designated by law, it shall be lawful for the court to hold its session, or any part of its session, at any other room within the limits of the county seat, or at any other room open to the public within an institution of the department of correction or the department of children's services if the court deems it necessary, and all its proceedings at such place, whether in civil or criminal cases, are as valid as if done at the courthouse.

(2)(A) It is lawful for the court to temporarily hold its session, or any part of its session, in a courthouse or other room located outside the county seat if:

(i) The courthouse in the county seat is rendered temporarily unusable by reason of a natural disaster;

(ii) Trials and other judicial proceedings are scheduled to be held in the courthouse during the time the courthouse is temporarily unusable;

(iii) Another room located within the county seat with sufficient security and otherwise suitable for conducting court proceedings is not available; and

(iv) The presiding judge of the district determines that extraordinary circumstances exist such that temporarily moving the judicial proceedings outside the county seat is in the best interests of justice.

(B) If the presiding judge of the judicial district determines the requirements of subdivision (a)(2)(A) have been met, the presiding judge will consult with the person who schedules events and proceedings at the location outside the county seat to determine dates when the courthouse or room outside the county seat is available for use.

(C) When the courthouse, or place designated by law, within the county seat is ready for use, judicial proceedings must be returned to the courthouse of the county seat, unless a trial is in progress at the time the courthouse within the county seat is ready for use and all parties involved agree to keep the matter in the courthouse or room outside the county seat until the conclusion of the case.

(D) All proceedings held pursuant to this subdivision (a)(2) in a courthouse or other room located outside the county seat, whether civil or criminal cases, are as valid as if done at the courthouse within the county seat.

(E) Nothing in this subdivision (a)(2) allows:

(i) The direct or indirect relocation of the county seat; or

(ii) A court to lawfully hold its session at a courthouse or other room located outside the county seat for a period of time longer than is necessary to relocate or reconstruct a courthouse or other room within the limits of the county seat, except as provided in subdivision (a)(2)(C).

(F) As used in this subdivision (a)(2), "natural disaster" has the same meaning as defined in § 4-31-803.

(b) Nothing in this section shall be construed as preventing or prohibiting a county that has constructed a criminal justice building or facility, or that uses a building or facility, that is not located within the limits of the county seat, from holding criminal court in that building or facility; provided, that it is

located within the limits of the county. If the building or facility is used to hold criminal court, a defendant may be indicted, prosecuted, tried and convicted in that building or facility as if done at the courthouse.

16-2-506. Establishment of judicial districts — Assistant district attorneys general — Criminal investigators — Equity and law courts — Chancery courts.

The state is divided into thirty-two (32) judicial districts composed as follows:

(1)(A) The first judicial district consists of the counties of Carter, Johnson, Unicoi and Washington. The four (4) incumbent trial court judges and the district attorney general currently residing in those counties shall continue to serve the first judicial district in their respective capacities. In 1988, the qualified voters of the first judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512;

(B) The district attorney general of the first judicial district is entitled to nine (9) assistant district attorney general positions and one (1) criminal investigator position;

(2)(A) The second judicial district consists of the county of Sullivan. The three (3) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the second judicial district in their respective capacities. Effective September 1, 1984, the law and equity court currently located in Sullivan County shall become a chancery court for the second judicial district and the current law and equity judge shall become a chancellor who on such date shall possess the same jurisdiction, powers and duties and shall receive the same compensation, benefits, emoluments and dignity of office as is required or provided by law for chancellors. In 1984, the qualified voters of the second judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part II of the circuit court of such district;

(B) The district attorney general of the second judicial district is entitled to eight (8) assistant district attorney general positions and two (2) criminal investigator positions;

(3)(A) The third judicial district consists of the counties of Greene, Hamblen, Hancock and Hawkins. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the third judicial district in their respective capacities. In 1986, the qualified voters of the third judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512. In 1990, the qualified voters of the third judicial district shall elect an additional circuit court judge in accordance with § 16-2-505 to serve part III of the circuit court of such district;

(B) The district attorney general of the third judicial district is entitled to nine (9) full-time assistant district attorney general positions and three (3) criminal investigator positions;

(4)(A) The fourth judicial district consists of the counties of Cocke, Grainger, Jefferson and Sevier. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall

continue to serve the fourth judicial district in their respective capacities. Notwithstanding any other provision of law or this part to the contrary, the chancellor currently serving in the fourth judicial district shall also serve the fifth judicial district. As long as the chancellor for the fourth judicial district also serves the fifth judicial district, such chancellor shall be elected by the qualified voters of both such districts and may reside in either district. In 1990, the qualified voters of the fourth judicial district shall elect an additional circuit court judge in accordance with § 16-2-505 to serve part III of the circuit court of such district. Effective September 1, 1998, there is created an additional circuit court in the fourth judicial district. At the August 1998 general election, the qualified voters of the fourth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(B) The district attorney general of the fourth judicial district is entitled to seven (7) assistant district attorney general positions and two (2) criminal investigator positions;

(5)(A) The fifth judicial district consists of the county of Blount. The two (2) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the fifth judicial district in their respective capacities;

(B) The district attorney general of the fifth judicial district is entitled to five (5) assistant district attorney general positions and one (1) criminal investigator position;

(6)(A) The sixth judicial district shall consist of the county of Knox. The nine (9) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the sixth judicial district in their respective capacities. In 1986, the qualified voters of the sixth judicial district shall elect an additional chancellor in accordance with § 16-2-505 to serve part III of the chancery court of such district;

(B) The district attorney general of the sixth judicial district is entitled to sixteen (16) assistant district attorney general positions and two (2) criminal investigator positions;

(7)(A) The seventh judicial district consists of the county of Anderson. The two (2) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the seventh judicial district;

(B) The district attorney general of the seventh judicial district is entitled to three (3) assistant district attorney general positions and one (1) criminal investigator position;

(8)(A) The eighth judicial district consists of the counties of Campbell, Claiborne, Fentress, Scott and Union. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the eighth judicial district in their respective capacities;

(B) The district attorney general of the eighth judicial district is entitled to six (6) assistant district attorney general positions and two (2) criminal investigator positions;

(9)(A) The ninth judicial district consists of the counties of Loudon, Meigs, Morgan and Roane. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue

to serve the ninth judicial district in their respective capacities. In 1984, the qualified voters of the ninth judicial district shall elect a chancellor in accordance with § 16-2-505 to serve part I of the chancery court of such district;

(B) The district attorney general of the ninth judicial district is entitled to five (5) assistant district attorney general positions and two (2) criminal investigator positions;

(10)(A) The tenth judicial district consists of the counties of Bradley, McMinn, Monroe and Polk. The four (4) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the tenth judicial district in their respective capacities. In 1986, the qualified voters of the tenth judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512;

(B) The district attorney general of the tenth judicial district is entitled to ten (10) assistant district attorney general positions and two (2) criminal investigator positions;

(11)(A) The eleventh judicial district consists of the county of Hamilton. The nine (9) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the eleventh judicial district in their respective capacities;

(B) The district attorney general of the eleventh judicial district is entitled to seventeen (17) assistant district attorney general positions and four (4) criminal investigator positions;

(12)(A)(i) The twelfth judicial district consists of the counties of Bledsoe, Franklin, Grundy, Marion, Rhea and Sequatchie. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twelfth judicial district in their respective capacities. In 1986, the qualified voters of the twelfth judicial district shall elect an additional judge in accordance with § 16-2-505, to serve part III of the circuit court of such district;

(ii) Notwithstanding any other provision of this part to the contrary, from September 1, 1984 until September 1, 1990, the chancellor currently residing in the twelfth judicial district shall also serve as chancellor for Coffee and Warren counties in the fourteenth and thirty-first judicial districts, respectively;

(B) The district attorney general of the twelfth judicial district is entitled to eight (8) assistant district attorney general positions and two (2) criminal investigator positions;

(13)(A) The thirteenth judicial district consists of the counties of Clay, Cumberland, DeKalb, Overton, Pickett, Putnam and White. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the thirteenth judicial district in their respective capacities. In 1984, the qualified voters of the thirteenth judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part II of the circuit court of such district. Effective September 1, 1998, there is created a criminal court in the thirteenth judicial district. At the August 1998 general election, the qualified voters of the thirteenth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the criminal court created by this section for an eight-year term;

(B) The district attorney general of the thirteenth judicial district is entitled to eight (8) assistant district attorney general positions and two (2) criminal investigator positions;

(14)(A) The fourteenth judicial district consists of the county of Coffee. The incumbent trial court judge and district attorney general currently residing in such county shall continue to serve the fourteenth judicial district in their respective capacities. In 1990, the qualified voters of the fourteenth judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505, to serve the court and part of court designated pursuant to § 16-2-512. The additional judge elected in 1990 shall serve the fourteenth judicial district exclusively and the judge currently residing in such district shall also have the responsibility and duty to assist the judge of the thirty-first judicial district with the judge's docket by interchange;

(B) The district attorney general of the fourteenth judicial district is entitled to three (3) assistant district attorney general positions and one (1) criminal investigator positions;

(15)(A) The fifteenth judicial district consists of the counties of Jackson, Macon, Smith, Trousdale and Wilson. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the fifteenth judicial district. The present criminal court judge shall continue to serve as judge of the criminal court; the present chancellor shall continue to serve as judge of the chancery court; and the present circuit judge shall continue to serve as judge of the circuit court. Effective September 1, 1998, there is created an additional circuit court in the fifteenth judicial district. At the August 1998 general election, the qualified voters of the fifteenth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(B) The district attorney general of the fifteenth judicial district is entitled to seven (7) assistant district attorney general positions and two (2) criminal investigator positions;

(16)(A)(i) The sixteenth judicial district consists of the counties of Cannon and Rutherford. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the sixteenth judicial district in their respective capacities. In 1984, the qualified voters of the sixteenth judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part II of the circuit court of such district;

(ii) On May 31, 1993, there is created an additional court in the sixteenth judicial district with the type of such court, type of judge to preside over such court and part of court being designated as provided in § 16-2-512. The position of judge or chancellor for such court is also created on such date and such position shall be filled by appointment as provided by law. The person so appointed shall serve until September 1, 1994, or until such person's successor is elected and qualified. At the August 1994 general election, the qualified voters of the sixteenth judicial district shall elect a judge or chancellor in accordance with § 16-2-505 to serve the court and part of court created by subdivision (16)(A)(ii);

(iii) Effective September 1, 1998, there is created an additional circuit court in the sixteenth judicial district. At the August 1998 general

election, the qualified voters of the sixteenth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(iv) Effective September 1, 2018, there is created an additional trial court in the sixteenth judicial district. The type of court, type of judge to preside over the court, and part of court shall be designated as provided in § 16-2-512. The governor shall appoint a person to serve as an additional judge or chancellor, and the person so appointed shall serve in that capacity until September 1, 2020, or until the person's successor is elected and qualified. At the August 2020 general election, the qualified voters of the sixteenth judicial district shall elect an additional judge or chancellor to serve until September 1, 2022, or until the person's successor is elected and qualified. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of the sixteenth judicial district shall elect an additional judge or chancellor for a full eight-year term;

(B) The district attorney general of the sixteenth judicial district is entitled to ten (10) assistant district attorney general positions and one (1) criminal investigator position;

(17)(A) The seventeenth judicial district consists of the counties of Bedford, Lincoln, Marshall and Moore. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the seventeenth judicial district in their respective capacities. Effective September 1, 1989, there is created the position of circuit court judge to serve part II of the circuit court of the seventeenth judicial district. Such position shall be filled by appointment of the governor as provided by law and the person so appointed shall serve until September 1, 1990, or until such person's successor is elected and qualified. In 1990, the qualified voters of the seventeenth judicial district shall elect a circuit court judge in accordance with § 16-2-505, to serve part II of the circuit court of such district. The judge of part II of such circuit court may be a resident of any county within the seventeenth judicial district and shall serve the entire district;

(B) The district attorney general of the seventeenth judicial district is entitled to five (5) assistant district attorney general positions and one (1) criminal investigator position;

(18)(A)(i) The eighteenth judicial district consists of the county of Sumner. The two (2) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the eighteenth judicial district in their respective capacities. In 1986, the qualified voters of the eighteenth judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512;

(ii) Notwithstanding any other provision of this part to the contrary, from September 1, 1984 until September 1, 1990, the circuit court judge currently residing in the eighteenth judicial district shall also serve the nineteenth judicial district;

(B) The district attorney general of the eighteenth judicial district is entitled to seven (7) assistant district attorney general positions and two (2) criminal investigator positions;

(19)(A)(i) The nineteenth judicial district consists of the counties of Montgomery and Robertson. The two (2) incumbent trial court judges

and the district attorney general currently residing in such counties shall continue to serve the nineteenth judicial district in their respective capacities. In 1984, the qualified voters of the nineteenth judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part I of the circuit court of such district;

(ii) Notwithstanding any other provision of this part to the contrary, from September 1, 1984 until September 1, 1988, the chancellor currently residing in the nineteenth judicial district shall also serve as chancellor for Stewart County in the twenty-third judicial district;

(iii) The circuit court judge elected in 1984 to serve part I of the circuit court of the nineteenth judicial district shall be a resident of Robertson County but shall serve the entire district. In any subsequent election for part I of such circuit court, the judge may be a resident of any county within the district. Notwithstanding any other provision of this part to the contrary, from September 1, 1984 until September 1, 1986, the circuit judge for the nineteenth judicial district is authorized to sit by interchange in the eighteenth judicial district when requested to do so by the judges of the eighteenth judicial district. During such two-year period, nothing other than the agreement of the judges involved is necessary to effectuate such an interchange;

(iv) Effective September 1, 1984, the law and equity court currently located in Montgomery County shall become part II of the circuit court of the nineteenth judicial district and the current law and equity judge shall become judge of part II of such circuit court. On such date, such law and equity judge shall possess the same jurisdiction, powers and duties and shall receive the same compensation, benefits, emoluments and dignity of office as is required or provided by law for circuit court judges;

(v) In 1990, the qualified voters of the nineteenth judicial district shall elect an additional circuit court judge in accordance with § 16-2-505 to serve part III of the circuit court of such district;

(vi) Effective September 1, 2015, there is created in the nineteenth judicial district one (1) additional circuit court to be designated as division IV. The governor shall appoint a person to serve as judge of division IV of the circuit court. The person so appointed shall serve in such capacity until September 1, 2016, or until the person's successor is elected and qualified. At the August 2016 general election, the qualified voters of the nineteenth judicial district shall elect, in accordance with § 16-2-505, one (1) person to serve as judge of division IV of the circuit court. The person so elected at the August 2016 general election shall hold office until September 1, 2022, or until the person's successor is elected and qualified. Thereafter, the judge of division IV of the circuit court shall be elected for a full eight-year term;

(vii) Effective September 1, 2018, there is created an additional trial court in the nineteenth judicial district. The type of court, type of judge to preside over the court, and part of court shall be designated as provided in § 16-2-512. The governor shall appoint a person to serve as an additional judge or chancellor, and the person so appointed shall serve in that capacity until September 1, 2020, or until the person's successor is elected and qualified. At the August 2020 general election, the qualified voters of the nineteenth judicial district shall elect an

additional judge or chancellor to serve until September 1, 2022, or until the person's successor is elected and qualified. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of the nineteenth judicial district shall elect an additional judge or chancellor for a full eight-year term;

(B) The district attorney general of the nineteenth judicial district is entitled to ten (10) assistant district attorney general positions and one (1) criminal investigator position;

(20)(A)(i) The twentieth judicial district consists of the county of Davidson. The twelve (12) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the twentieth judicial district in their respective capacities. In 1990, the qualified voters of the twentieth judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512. In 1998, the qualified voters of the twentieth judicial district shall elect an additional circuit court judge in accordance with § 16-2-505 to serve as judge of division VII of the circuit court of such district. In addition to the jurisdiction of a circuit court judge, the judge of division VII shall have concurrent chancery court jurisdiction and exclusive jurisdiction over the probate of wills and the administration of estates, including the estates of decedents and of wards under guardianships and conservatorships. Effective September 1, 1998, there is created an additional circuit court in the twentieth judicial district. At the August 1998 general election, the qualified voters of the twentieth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(ii) Effective September 1, 2003, there is created in the twentieth judicial district one (1) additional chancery court to be designated as division IV and two (2) additional criminal courts to be designated as division V and division VI. The governor shall appoint a person to serve as chancellor of division IV of the chancery court, a person to serve as judge of division V of the criminal court and a person to serve as judge of division VI of the criminal court. The persons so appointed shall serve in such capacity until September 1, 2004, or until their successors are elected and qualified. At the August 2004 general election, the qualified voters of the twentieth judicial district shall elect, in accordance with § 16-2-505, one (1) person to serve as chancellor of division IV of the chancery court, one (1) person to serve as judge of division V of the criminal court and one (1) person to serve as judge of division VI of the criminal court. The persons so elected at the August 2004 election shall hold office until September 1, 2006, and until their successors are elected and qualified. Thereafter, the chancellor and judges shall be elected for full eight-year terms;

(B) The district attorney general of the twentieth judicial district is entitled to thirty (30) assistant district attorney general positions and five (5) criminal investigator positions;

(21)(A)(i) Until September 1, 2022, the twenty-first judicial district consists of the counties of Hickman, Lewis, Perry and Williamson. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-

first judicial district in their respective capacities. In 1986, the qualified voters of the twenty-first judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512. Effective January 1, 1998, there is created an additional circuit court in the twenty-first judicial district. At the August 1998 general election, the qualified voters of the twenty-first district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(ii) Effective September 1, 2018, there is created an additional trial court in the twenty-first judicial district. The type of court, type of judge to preside over the court, and part of court shall be designated as provided in § 16-2-512. The governor shall appoint a person to serve as an additional judge or chancellor, and the person so appointed shall serve in that capacity until September 1, 2020, or until the person's successor is elected and qualified. At the August 2020 general election, the qualified voters of the twenty-first judicial district shall elect an additional judge or chancellor to serve until September 1, 2022, at which time the additional trial court shall be transferred to the newly created thirty-second judicial district and presided over by a trial court judge elected by voters of the thirty-second judicial district at the August 2022 general election;

(iii) It is the intent of the general assembly by adding an additional trial court in the twenty-first judicial district that the interests of public access to the courts and economy of judicial travel are best served by the presiding judge designating the new trial court created by subdivision (21)(A)(ii) to serve Hickman, Lewis, and Perry counties prior to being transferred to the thirty-second judicial district. Unless otherwise designated by the presiding judge to effectuate the duties enumerated in § 16-2-509(b), the remaining judges shall serve Williamson County;

(B)(i) Effective September 1, 2022, the twenty-first judicial district consists of the county of Williamson. Except as provided in subdivision (21)(A)(iii), the incumbent trial court judges and the district attorney general currently residing in the county shall continue to serve the twenty-first judicial district in their respective capacities until September 1, 2022. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of Williamson County shall elect four (4) trial court judges to fill the positions created by subdivision (21)(A)(i) for a full eight-year term;

(ii) Effective September 1, 2022, the additional trial court created by subdivision (21)(A)(ii) shall be transferred to the thirty-second judicial district;

(C) The district attorney general of the twenty-first judicial district is entitled to seven (7) assistant district attorney general positions, one (1) criminal investigator position, and one (1) additional assistant district attorney general position; provided, that the funding for such additional assistant district attorney general position is provided exclusively by the municipal and county governments that comprise the twenty-first judicial district;

(22)(A) The twenty-second judicial district consists of the counties of Giles, Lawrence, Maury and Wayne. The three (3) incumbent trial court

judges and the district attorney general currently residing in such counties shall continue to serve the twenty-second judicial district in their respective capacities. Effective September 1, 1998, there is created an additional circuit court in the twenty-second judicial district. At the August 1998 general election, the qualified voters of the twenty-second judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(B) The district attorney general of the twenty-second judicial district is entitled to eight (8) assistant district attorney general positions and two (2) criminal investigator positions;

(23)(A) The twenty-third judicial district consists of the counties of Cheatham, Dickson, Houston, Humphreys and Stewart. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-third judicial district in their respective capacities. In 1988, the qualified voters of the twenty-third judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512;

(B) The district attorney general of the twenty-third judicial district is entitled to seven (7) assistant district attorney general positions and two (2) criminal investigator positions. The fifth assistant district attorney general position shall not be filled unless full funding for the position is secured from local, federal or other funding sources apart from state appropriations;

(24)(A) The twenty-fourth judicial district consists of the counties of Benton, Carroll, Decatur, Hardin and Henry. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-fourth judicial district in their respective capacities. In 1984, the qualified voters of the twenty-fourth judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part II of the circuit court of such district;

(B) The district attorney general of the twenty-fourth judicial district is entitled to five (5) assistant district attorney general positions and one (1) criminal investigator position;

(25)(A) The twenty-fifth judicial district consists of the counties of Fayette, Hardeman, Lauderdale, McNairy and Tipton. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-fifth judicial district in their respective capacities. In 1990, the qualified voters of the twenty-fifth judicial district shall elect an additional judge or chancellor in accordance with § 16-2-505 to serve the court and part of court designated pursuant to § 16-2-512;

(B) The district attorney general of the twenty-fifth judicial district is entitled to nine (9) assistant district attorney general positions and one (1) criminal investigator position;

(26)(A) The twenty-sixth judicial district consists of the counties of Chester, Henderson and Madison. The three (3) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-sixth judicial district in their respective capacities. Effective September 1, 1998, there is created an additional circuit court in the twenty-sixth judicial district. At the August

1998 general election, the qualified voters of the twenty-sixth judicial district shall elect a person in accordance with § 16-2-505, to serve as judge of the circuit court created by this section for an eight-year term;

(B) The district attorney general of the twenty-sixth judicial district is entitled to seven (7) assistant district attorney general positions and one (1) criminal investigator position;

(27)(A) The twenty-seventh judicial district consists of the counties of Obion and Weakley. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-seventh judicial district in their respective capacities;

(B) The district attorney general of the twenty-seventh judicial district is entitled to three (3) assistant district attorney general positions and one (1) criminal investigator position;

(28)(A)(i) The twenty-eighth judicial district consists of the counties of Crockett, Gibson and Haywood. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-eighth judicial district in their respective capacities;

(ii) Effective September 1, 1984, the law and equity court currently located in Gibson County shall become a chancery court for the twenty-eighth judicial district and the current law and equity judge shall become a chancellor who on such date shall possess the same jurisdiction, powers and duties and shall receive the same compensation, benefits, emoluments and dignity of office as is required or provided by law for chancellors;

(B) The district attorney general of the twenty-eighth judicial district is entitled to five (5) assistant district attorney general positions and one (1) criminal investigator position;

(29)(A)(i) The twenty-ninth judicial district consists of the counties of Dyer and Lake. The two (2) incumbent trial court judges and the district attorney general currently residing in such counties shall continue to serve the twenty-ninth judicial district in their respective capacities. Juvenile jurisdiction in Dyer County shall be in the court of general sessions as provided in §§ 37-1-102 and 37-1-203, unless such jurisdiction is vested in another court by law or private act;

(ii) Effective April 15, 1986, part II of the circuit court of the twenty-ninth judicial district shall become part I of the chancery court of such district and the current judge of part II of such circuit court shall become chancellor of part I of the chancery court of such district. On such date, such chancellor shall possess the same jurisdiction, powers and duties and shall receive the same compensation, benefits, emoluments and dignity of office as is required or provided by law for chancellors. This chancellor shall have concurrent jurisdiction with the circuit court of this district;

(B) The district attorney general of the twenty-ninth judicial district is entitled to three (3) assistant district attorney general positions and one (1) criminal investigator position;

(C) Effective September 1, 1984, there is created the position of secretary for the chancellor of part I of the chancery court of the twenty-ninth judicial district and such chancellor is authorized to employ a person to fill such position in accordance with § 16-2-505(c);

(30)(A) The thirtieth judicial district is composed of the county of Shelby. The nineteen (19) incumbent trial court judges and the district attorney general currently residing in such county shall continue to serve the thirtieth judicial district in their respective capacities. In 1984, the qualified voters of the thirtieth judicial district shall elect an additional judge in accordance with § 16-2-505 to serve part IX of the circuit court of such district. In 1990, the qualified voters of the thirtieth judicial district shall elect one (1) additional criminal court judge in accordance with § 16-2-505 to serve part IX of the criminal court of such district. The board of commissioners of Shelby County shall furnish all books other than those provided by the administrative director of the courts and other necessary supplies for the judge to be elected in 1990. On June 6, 1995, there is created an additional criminal court in the thirtieth judicial district. The court shall be Part X of the criminal court of such district. The position shall be filled by appointment as provided by law. The person so appointed shall serve until September 1, 1996, or until such person's successor is elected and qualified. At the August 1996 general election, the qualified voters of the thirtieth judicial district shall elect a criminal court judge in accordance with § 16-2-505 to serve Part X of the court;

(B) The district attorney general of the thirtieth judicial district is entitled to forty-four (44) assistant district attorney general positions and thirteen (13) criminal investigator positions; and

(31)(A) The thirty-first judicial district consists of the counties of Van Buren and Warren. The incumbent trial court judge currently residing in such counties shall continue to serve the thirty-first judicial district. The judge residing in the thirty-first judicial district shall also have the responsibility and duty to assist the judge of the fourteenth judicial district by interchange with such judge's docket;

(B)(i) Effective September 1, 1990, there is created the position of district attorney general for the thirty-first judicial district. At the regular August election in 1990, the qualified voters of the thirty-first judicial district shall elect a person to the position of district attorney general for a full eight-year term. The person elected to such position shall possess the same qualifications, powers and duties and shall receive the same compensation, payable in the same manner, benefits, emoluments and dignity of office as is required or provided by law for other district attorneys general;

(ii) Effective July 1, 1989, there are created two (2) secretarial positions for the district attorney general of the thirty-first judicial district. Such district attorney general shall select a suitable person to fill one (1) position and such person shall receive the same compensation, payable in the same manner, as is provided by law for the secretary of other district attorneys general. The secretary shall perform such duties as may be assigned by such district attorney general. Such district attorney general shall transfer all authority and funding concerning the other secretarial position to the district attorney general for the fourth judicial district who shall select a suitable person to fill the other position, and such person shall receive the same compensation, payable in the same manner, as is provided by law for the secretary of other district attorneys general. The secretary shall perform such duties as may be assigned by the district attorney general for the fourth

judicial district;

(iii) The district attorney general of the thirty-first judicial district is entitled to three (3) assistant district attorney general positions and one (1) criminal investigator position;

(iv) On September 1, 1990, the office space and all state-owned furniture, equipment, supplies, books and other such office property located in the Warren County courthouse and currently being used by the district attorney general of the fourteenth judicial district, or by one (1) of the district attorney general's assistants or investigators, shall be transferred for the use of the district attorney of the thirty-first judicial district. On and after such date, all such office space and other office property located in the Warren County courthouse shall become the space for and property of the office of district attorney general for the thirty-first judicial district. Nothing contained herein shall be construed as prohibiting such district attorney general from also establishing an office in the other county comprising the thirty-first judicial district;

(v) By September 1, 1990, all records, files, papers and other official documents pertaining to any pending or completed case arising out of any of the counties comprising the thirty-first judicial district shall be transferred to and become the property of the office of district attorney general for the thirty-first judicial district;

(vi) Notwithstanding any other law or this subdivision (31) to the contrary, if a vacancy occurs in the office of the district attorney general currently serving the thirty-first judicial district, the governor shall appoint a suitable person to serve as district attorney general for such district. The person so appointed shall possess all of the qualifications required by law for district attorneys general and shall serve until September 1, 1990, or until the district attorney general to be elected by the voters of the thirty-first judicial district pursuant to this subdivision (31)(B) is elected and qualified; and

(32)(A) Effective September 1, 2022, the thirty-second judicial district consists of the counties of Hickman, Lewis, and Perry. The incumbent trial court judge elected pursuant to subdivision (21)(A)(ii) shall continue to serve the twenty-first judicial district until September 1, 2022, at which time the additional trial court created by subdivision (21)(A)(ii) shall be transferred to the thirty-second judicial district and presided over by a trial court judge to be elected by voters of the thirty-second judicial district at the August 2022 general election. Every eight (8) years thereafter, the qualified voters of the thirty-second judicial district shall elect a judge or chancellor for a full eight-year term;

(B)(i) Effective September 1, 2022, there is created the position of district attorney general for the thirty-second judicial district. At the regular August election in 2022, the qualified voters of the thirty-second judicial district shall elect a person to the position of district attorney general for a full eight-year term. The person elected to such position shall possess the same qualifications, powers, and duties and shall receive the same compensation, payable in the same manner, benefits, emoluments, and dignity of office as is required or provided by law for other district attorneys general;

(ii) The district attorney general of the thirty-second judicial district is entitled to three (3) assistant district attorney general positions, one (1) administrative assistant position, two (2) secretary positions, one (1) criminal investigator position, and two (2) victim-witness coordinator positions;

(iii) On September 1, 2022, the office space and all state-owned furniture, equipment, supplies, books, and other such office property located in the Centerville or Hohenwald offices of the district attorney general of the twenty-first district and currently being used by the district attorney general of the twenty-first judicial district, or by one (1) of the district attorney general's assistants or investigators, shall be transferred for the use of the district attorney of the thirty-second judicial district. On and after such date, all such office space and other office property located in the Centerville and Hohenwald offices shall become the space for and property of the office of district attorney general for the thirty-second judicial district. Nothing in this subdivision (32)(B)(iii) prohibits the district attorney general from also establishing another office in the thirty-second judicial district; and

(iv) By September 1, 2022, all records, files, papers, and other official documents pertaining to any pending or completed case arising out of any of the counties comprising the thirty-second judicial district shall be transferred to and become the property of the office of district attorney general for the thirty-second judicial district.

24-7-102. Use of statement of party given in student disciplinary proceeding concerning sexual misconduct — No right of party to be represented at public expense — Adoption of rules of evidence.

(a) A written or oral statement of a party given in a student disciplinary proceeding concerning sexual misconduct must not be admissible in any civil or criminal trial, hearing, or proceeding for any purpose or be used for impeachment without the informed and written consent of the party if the statement was made in a student disciplinary proceeding in which the party did not have the active assistance of counsel.

(b) This section does not create a right for a party to be represented at the expense of the public, including a public institution of higher education.

(c) This section does not require a public institution of higher education to adopt formal rules of evidence in student disciplinary proceedings that are not a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) As used in this section:

(1) "Active assistance of counsel" means the right to be represented by a licensed attorney who is allowed to fully participate in the student disciplinary proceeding or an appeal of a result of a student disciplinary proceeding;

(2) "Civil or criminal trial, hearing, or proceeding" does not include any type of civil action, counterclaim, cross-claim, or third-party complaint initiated by or against a public institution of higher education;

(3) "Fully participate" means being allowed to engage in the following conduct in a student disciplinary proceeding on behalf of a party:

(A) Make arguments to the hearing officer, including opening and closing arguments during a hearing and arguments on procedural and

evidentiary issues; and

(B) Examine and cross-examine witnesses, directly or indirectly, if live witness testimony is presented;

(4) "Hearing officer" means:

(A) A hearing officer, hearing panel, or hearing board in a student disciplinary proceeding other than a contested case conducted under the Uniform Administrative Procedures Act; or

(B) An administrative law judge or hearing officer under the contested case provisions of the Uniform Administrative Procedures Act;

(5) "Party" means:

(A) A student accused of sexual misconduct; or

(B) A victim of sexual misconduct;

(6) "Sexual misconduct" means a violation of a public higher education institution's disciplinary policies concerning sexual assault, dating violence, domestic violence, or stalking; and

(7) "Student disciplinary proceeding" means a hearing, proceeding, or any other non-law enforcement process, other than an investigation, that is used by a public higher education institution to determine whether sexual misconduct occurred or to impose a sanction with respect to sexual misconduct.

28-1-101. [Repealed.]

28-3-110. Actions on public officers' and fiduciary bonds — Actions not otherwise covered — Affidavit of conviction and civil judgment.

(a) The following actions shall be commenced within ten (10) years after the cause of action accrued:

(1) Actions against guardians, executors, administrators, sheriffs, clerks, and other public officers on their bonds;

(2) Actions on judgments and decrees of courts of record of this or any other state or government; and

(3) All other cases not expressly provided for.

(b)(1) Notwithstanding subsection (a), there is no time within which a judgment or decree of a court of record entered on or after July 1, 2014, must be acted upon in the following circumstances:

(A) The judgment is for the injury or death of a person that resulted from the judgment debtor's criminal conduct; and

(B) The judgment debtor is convicted of a criminal offense for the conduct that resulted in the injury or death; or

(C) The civil judgment is originally an order of restitution converted to a civil judgment pursuant to § 40-35-304.

(2)(A) Prior to entry of the judgment, the judge shall make a determination on the record that the plaintiff's injury or death was the result of the defendant's criminal conduct and that the defendant's conduct resulted in a criminal conviction.

(B) When entering a civil judgment on or after July 1, 2014, to which this subsection (b) applies, both the trial judge and clerk shall sign and note the existence of the conviction on the judgment document, and the clerk shall also make appropriate docket notations. Such signatures and notations shall be sufficient evidence that the judgment is valid until paid

in full or otherwise discharged as authorized by law.

(c)(1) Notwithstanding subsection (b), if a person was awarded a judgment meeting the criteria of subdivision (b)(1) but the judgment was entered prior to July 1, 2014, and is still valid as of the date it is presented to the clerk pursuant to this subsection (c), the statute of limitations on such judgment set out in subsection (a) shall be tolled if the person:

(A) Obtains a certified copy of the defendant's judgment of conviction from the clerk of the court in which the conviction occurred showing that the conviction meets the criteria of subdivision (b)(1)(A) and (B);

(B) Obtains a certified copy of the person's civil judgment that was based on the defendant's criminal conduct;

(C) Completes, under penalty of perjury, an affidavit, in substantially the form set out in subsection (d).

(2) The clerk shall ensure that the documents presented are those required by subdivision (c)(1). If they are the correct documents, the clerk shall record the documents and from the date of recordation, the statute of limitations of the person's civil judgment shall be tolled.

(d) The affidavit required to accompany the judgment of conviction and civil judgment shall be substantially as follows:

AFFIDAVIT

Comes the Affiant _____
(Printed Name)

Under penalties of perjury, affiant deposes and says, to wit as follows:

1. I was awarded the attached civil judgment based upon the criminal conduct of another.

2. The attached judgment of conviction was the result of the criminal conduct.

3. The civil judgment and the judgment of conviction were based upon the same conduct.

4. The provision of § 28-3-110(b) is applicable to affiant pursuant to § 28-3-110(c).

Further Affiant Saith Not

_____
Signature of Affiant

ACKNOWLEDGEMENT

State of Tennessee

County of _____

On this _____ day of _____, 20_____, before me personally appeared _____ to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed, for the purposes therein set forth.

_____
(County Clerk) (Notary Public)

My Commission Expires _____

20_____

(e) Notwithstanding subsection (a), there is no time within which a judgment or decree in a domestic relations matter issued by a court with domestic relations jurisdiction pursuant to title 36 must be acted upon, unless otherwise specifically provided for under title 36.

28-3-202. Limitation of actions.

All actions, arbitrations, or other binding dispute resolution proceedings to recover damages for any deficiency in the design, planning, supervision, observation of construction, or construction of an improvement to real property, for injury to property, real or personal, arising out of any such deficiency, or for injury to the person or for wrongful death arising out of any such deficiency, must be brought against any person performing or furnishing the design, planning, supervision, observation of construction, or construction of the improvement within four (4) years after substantial completion of an improvement.

28-3-203. Injury during fourth year after completion — Limitation of action.

(a) Notwithstanding § 28-3-202, in the case of an injury to property or person or injury causing wrongful death, which injury occurred during the fourth year after substantial completion, an action, arbitration, or other binding dispute resolution proceeding to recover damages for the injury or wrongful death must be brought within one (1) year after the date on which the injury occurred, without respect to the date of death of the injured person.

(b) The action, arbitration, or other binding dispute resolution proceeding must, in all events, be brought within five (5) years after the substantial completion of the improvement.

28-3-204. Periods otherwise fixed not extended — New cause of action not created.

(a) This part does not extend the period or periods provided by the laws of this state or by agreement between the parties for the bringing of any action, arbitration, or other binding dispute resolution proceeding.

(b) This part does not create any cause of action not previously existing or recognized.

28-3-205. Limitation not defense under certain circumstances.

(a) The limitation provided by this part must not be asserted as a defense by any person in actual possession or the control, as owner, tenant, or otherwise, of an improvement at the time any deficiency in the improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action, arbitration, or other binding dispute resolution proceeding.

(b) The limitation provided by this part is not available as a defense to any person who has been guilty of fraud in performing or furnishing the design, planning, supervision, observation of construction, construction of, or land surveying, in connection with an improvement, or to any person who wrongfully conceals any such cause of action.

29-20-108. Immunity of emergency communications district boards, state, counties, and municipalities and employees — Exceptions. [Effective on January 1, 2021. See the version effective until January 1, 2021.]

(a) Emergency communications district boards, established in § 7-86-105, and the members of such board shall be immune from any claim, complaint or

suit of any nature which relates to or arises from the conduct of the affairs of the board except in cases of gross negligence by such board or its members. The finding of the general assembly is that the service of such boards and the members thereof is so critical to the safety and welfare of the citizens of this state that such absolute and complete immunity is required for the free exercise of the duties of such boards by the members.

(b) Such immunity shall also extend to employees of an emergency communications district, and county and municipal governments for the acts or omissions of employees that manage, supervise, or perform 911 emergency communications service as communicators or dispatchers; provided, that all such employees shall attain and maintain training requirements as may be required by state law.

(c) An emergency call taker or public safety dispatcher who assists or instructs a caller or bystander on T-CPR is not liable for any civil damages or subject to a civil suit of any nature arising out of the assistance and instruction provided to the caller or bystander, except in cases of gross negligence or willful misconduct.

(d)(1) A caller or bystander may decline to receive T-CPR.

(2) When a caller or bystander declines T-CPR, the emergency call taker or public safety dispatcher has no obligation to provide such instruction.

(e) The emergency communication district, state, county, and municipality are not liable for any civil damages or subject to a civil suit of any nature for employees who answer 911 emergency calls and employees who are recently hired, except in cases of gross negligence or willful misconduct.

(f) As used in this section, "T-CPR" means telecommunicator cardiopulmonary resuscitation, which is the dispatcher-assisted delivery of cardiopulmonary resuscitation (CPR) instruction by trained emergency call takers or public safety dispatchers to callers or bystanders for events requiring CPR, such as out-of-hospital cardiac arrest (OHCA).

29-20-205. Removal of immunity for injury caused by negligent act or omission of employees — Exceptions — Immunity for year 2000 computer calculation errors.

Immunity from suit of all governmental entities is removed for injury proximately caused by a negligent act or omission of any employee within the scope of his employment except if the injury arises out of:

(1) The exercise or performance or the failure to exercise or perform a discretionary function, whether or not the discretion is abused;

(2) False imprisonment pursuant to a mittimus from a court, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, invasion of right of privacy, or civil rights;

(3) The issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization;

(4) A failure to make an inspection, or by reason of making an inadequate or negligent inspection of any property;

(5) The institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(6) Misrepresentation by an employee whether or not such is negligent or

intentional;

(7) Or results from riots, unlawful assemblies, public demonstrations, mob violence and civil disturbances;

(8) Or in connection with the assessment, levy or collection of taxes;

(9) Or in connection with any failure occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted and reasonably implemented complying with generally accepted computer and information system design standards. Notwithstanding any other law, nothing in this subdivision (9) shall in any way limit the liability of a third party, direct or indirect, who is negligent. Further, a person who is injured by the negligence of a third party contractor, direct or indirect, shall have a cause of action against the contractor; or

(10) **[Repealed effective July 1, 2022. See Compiler's Note.]** Or in connection with any loss, damage, injury, or death arising from COVID-19, as defined in § 29-34-802(a), unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission by the entity or its employees constituting gross negligence. The requirements of § 29-34-802(c) apply to any such cause of action when applicable.

29-20-210. Liability of governmental entity for damages, injury, or death proximately caused by governmental entity intentionally prohibiting or preventing law enforcement or fire and rescue services from accessing specifically bounded area within governmental entity's jurisdiction during public demonstration.

(a) A governmental entity shall not intentionally prohibit or prevent law enforcement or fire and rescue services from accessing a specifically bounded area within the governmental entity's jurisdiction during a public demonstration unless the services are replaced by like services provided by another governmental entity.

(b) A governmental entity violating subsection (a) may be held liable, subject to the limits set forth in this chapter, for damages, injury, or death proximately caused by the governmental entity intentionally prohibiting or preventing law enforcement or fire and rescue services from accessing a specifically bounded area within the governmental entity's jurisdiction during a public demonstration.

(c) As used in this section, "governmental entity" means a mayor, chief executive officer, governing body, board, commission, committee, or department of a municipality, county, or other political subdivision of the state.

(d) This section does not apply to tactical decisions made by law enforcement or fire and rescue services personnel based on the risks to or safety of personnel or the public.

29-20-310. Determinations to be made by court — Restrictions on claims against employees — Health care liability — Immunity indemnification and insurability of local government employees.

(a) The court, before holding a governmental entity liable for damages, must first determine that the employee's or employees' act or acts were negligent and the proximate cause of plaintiff's injury, that the employee or employees acted within the scope of their employment and that none of the exceptions listed in § 29-20-205 are applicable to the facts before the court.

(b) No claim may be brought against an employee or judgment entered against an employee for damages for which the immunity of the governmental entity is removed by this chapter unless the claim is one for health care liability brought against a health care practitioner. No claim for health care liability may be brought against a health care practitioner or judgment entered against a health care practitioner for damages for which the governmental entity is liable under this chapter, unless the amount of damages sought or judgment entered exceeds the minimum limits set out in § 29-20-403 or the amount of insurance coverage actually carried by the governmental entity, whichever is greater, and the governmental entity is also made a party defendant to the action. As used in this subsection (b), "health care practitioner" means physicians licensed under title 63, chapter 6, and nurses licensed under title 63, chapter 7.

(c) No claim may be brought against an employee or judgment entered against an employee for injury proximately caused by an act or omission of the employee within the scope of the employee's employment for which the governmental entity is immune in any amount in excess of the amounts established for governmental entities in § 29-20-403, unless the act or omission was willful, malicious, criminal, or performed for personal financial gain, or unless the act or omission was one of health care liability committed by a health care practitioner and the claim is brought against such health care practitioner. As used in this subsection (c), "health care practitioner" means physicians licensed under title 63, chapter 6, and nurses licensed under title 63, chapter 7.

(d) Local governmental entities shall have the right, as a matter of local option, to elect to insure or to indemnify their employees for claims for which the governmental entity is immune under this chapter arising under state or federal law upon such terms and conditions as the local government may deem appropriate; provided, that such indemnification may not exceed the limits of liability established for governmental entities in § 29-20-403 except in causes of action in which the liability of governmental employees is not limited as provided in this chapter.

(e)(1) As used in this subsection (e), "volunteer" means a person who donates or volunteers that person's time or services to a local governmental entity when the donation of such time or services is at the request of the local governmental entity and under the direction of a local governmental employee.

(2) A local governmental entity may elect to insure or indemnify its volunteers for claims arising under state or federal law for which the governmental entity is immune under this chapter. Such insurance or indemnification shall be upon such terms and conditions as the local

governmental entity establishes. However, no such indemnification may exceed the limits of liability established for governmental entities in § 29-20-403. The volunteer shall be liable for any amount in excess of such limits of governmental liability established in § 29-20-403.

(3) Nothing in this subsection (e) may be construed to affect the status of regular members of a voluntary or auxiliary firefighting, police or emergency assistance organization as employees of a governmental entity as provided in § 29-20-107(d), nor to impair any immunity granted to these personnel because of that status.

(f) **[Subsection (f) repealed effective July 1, 2022. See Compiler's Note.]**

(1) No claim may be brought against an employee or judgment entered against an employee for any loss, damage, injury, or death arising from COVID-19, as defined in § 29-34-802(a), and proximately caused by an act or omission of the employee within the scope of the employee's employment for which the governmental entity is immune, unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was caused by an act or omission that was willful, malicious, criminal, or performed for personal financial gain.

(2)(A) In any claim alleging loss, damage, injury, or death arising from COVID-19 under this subsection (f), the claimant must file a verified complaint pleading specific facts with particularity from which a finder of fact could reasonably conclude that the alleged loss, damage, injury, or death was caused by the defendant's willful, malicious, or criminal act or omission, or performed for personal financial gain.

(B) In any claim alleging loss, damage, injury, or death based on exposure to or contraction of COVID-19 under this subsection (f), the claimant must also file with the verified complaint a certificate of good faith stating that the claimant or claimant's counsel has consulted with a physician duly licensed to practice in the state or a contiguous bordering state, and the physician has provided a signed written statement that the physician is competent to express an opinion on exposure to or contraction of COVID-19 and, upon information and belief, believes that the alleged loss, damage, injury, or death was caused by an act or omission of the defendant or defendants.

(3) The failure of a claimant to satisfy the requirements of subdivisions (f)(1) and (2), if required by subdivision (f)(2), shall, upon motion, make the action subject to dismissal with prejudice.

29-20-401. Creation of reserve or special fund — Pooling agreements with other governmental entities — Election to self-insurer.

(a) Any governmental entity may create and maintain a reserve or special fund for the purpose of making payment of claims against it payable pursuant to this chapter or for the purpose of purchasing liability insurance to protect it from any and all risks created by this chapter.

(b)(1) Any two (2) or more governmental entities are hereby granted the power, any provision of law to the contrary notwithstanding, to enter into an agreement or agreements with one another for joint or cooperative action to pool their financial and administrative resources for the purpose of provid-

ing to the participating governmental entities risk management, insurance, reinsurance, which is defined to mean reinsurance by an entity created under this section, self-insurance, or any combination thereof for any and all of the areas of liability or insurability, or both, for such governmental entities, including, but not limited to, the liabilities created by this chapter (including general and professional liabilities), liabilities under the workers' compensation law, liabilities under the unemployment compensation law, and motor vehicle insurance. All such agreements shall be made pursuant to title 12, chapter 9.

(2) The power to enter into agreements hereunder specifically includes the power to establish a separate legal or administrative entity or entities to effectuate such agreements or, if no separate legal or administrative entity or entities are established, to designate an administrator of the pooled financial and administrative resources. An entity so established, or an administrator so designated, shall be deemed to have been appointed by the governing body of the governmental entity for the purposes of § 29-20-309, and this appointment shall not be considered as a violation of the provision of § 12-9-104(a) dealing with the powers, privileges or authority of officers of political subdivisions.

(3) Each such agreement shall be approved by appropriate resolution or as otherwise permitted by the laws of the participating governmental entities before any such agreement shall be effective or binding.

(4) In addition to those items included in any such agreement pursuant to § 12-9-104(c), the agreement may specify: the nature and scope of insurance coverage and coverages to be provided; the method and methods by which coverage and coverages are to be extended, contributions (which term shall include all premiums or assessments) levied and paid, claims administered and defended against; the procedures by which financial reserves shall be established and maintained; and, any other provisions necessary for proper administration of the pooled resources.

(5) Such agreements may provide for the pooling of losses and any other expenses so that any or all of the funds contributed by a participating governmental entity may be used to pay claims against or with respect to any of the other participating governmental entities and any costs or expenses, or both, relative to any entity authorized by this part. The general assembly hereby finds and determines that all contributions of financial and administrative resources made pursuant to an agreement as authorized herein are made for a public and governmental purpose and that all such contributions benefit the contributing governmental entity.

(c)(1) Any governmental entity choosing to create and maintain a special fund, or to enter into an agreement, as authorized in this section for the purpose of insuring against the liabilities created by this chapter, shall be deemed to be electing to self-insure against the liabilities established in this chapter and shall, therefore, have the same limits of liability as if the minimum limits of liability established in § 29-20-403 had been purchased.

(2) Should any governmental entity choose to enter into an agreement for the purpose of insuring for the liabilities of the Workers' Compensation Law, as authorized in this section, it shall be deemed to have accepted the Workers' Compensation Law pursuant to § 50-6-106(5), and it shall be deemed to have insured for such liabilities with an association, organization or corporation authorized to transact the business of workers' compensation

insurance pursuant to § 50-6-405(a)(1). Certificates of compliance issued by the legal or administrative entity created by the agreement between the governmental entities for this purpose shall be accepted by the department of labor and workforce development.

(d)(1) No special fund established by an agreement authorized under this section and under title 12, chapter 9, shall be considered as an "insurance company" nor shall any contribution of financial or administrative resources to such a special fund be considered a "premium" or "gross premium" under title 56 for any purpose, including regulation and taxation.

(2) There shall be maintained in any special fund created pursuant to this section such an amount of reserve funds as is deemed adequate by the department in accordance with reserve standards applicable to private insurance companies pursuant to title 56. The department of commerce and insurance is authorized to charge reasonable fees to cover expenses incurred in the course of investigations and audits conducted for the purpose of making this determination, and is authorized to promulgate such rules and regulations necessary to accomplish the purposes of this subsection (d).

(e) Any special fund or legal or administrative entity created pursuant to this part shall have the power to reinsure, in whole or in part, any of the areas of liability or insurability of governmental entities or governmental employees. Notwithstanding any other law to the contrary, this power to reinsure may be exercised through the creation, operation, or ownership, in whole or in part, of reinsuring entities, or by entering into contracts or treaties of reinsurance with reinsuring entities, or by any combination thereof; provided, that the reinsuring entity is lawfully created under the laws of its jurisdiction. Any reinsuring entity created pursuant to this part may be created only by governmental entities as defined in this chapter or by an entity created by governmental entities pursuant to this part and the Interlocal Cooperation Act, compiled in title 12, chapter 9. Any such reinsuring entity may reinsure only any areas of liability or insurability of governmental entities or governmental employees.

(f)(1) Any legal or administrative entity created by an agreement between governmental entities to pool their resources to provide workers' compensation coverage is entitled to participate in the subsequent injury and vocational recovery fund established in § 50-6-208 upon the payment to the department of labor and workforce development of an annual fee. The annual fee shall be a percentage of the total financial contributions for workers' compensation coverage received from participating governmental entities and earned during a calendar year. The percentage shall equal the percentage of insurance company premiums, as measured by the premium tax, allocated and paid out by the subsequent injury and vocational recovery fund pursuant to § 50-6-208(b) and (c), during the same year, subject to a maximum of two percent (2%).

(2) If any such legal or administrative entity participates in the subsequent injury and vocational recovery fund as provided herein and then ceases participation, either the subsequent injury and vocational recovery fund shall remain liable for a claim for injuries to an employee insured by the entity that occurred prior to the termination of participation and for which benefits had not been paid prior to the termination; provided, that the legal or administrative entity shall promptly reimburse the subsequent injury and vocational recovery fund for the actual amount of any such benefits subsequently paid by the subsequent injury and vocational recovery fund; or,

within thirty (30) days of the cessation of such participation, the legal and administrative entity may elect to assume complete liability for such a claim. This assumption shall release the subsequent injury and vocational recovery fund from any duty to defend or liability, but in either case, the recovery by any employee shall not be reduced or defeated.

(g)(1) An insurance pool, special fund, reserve fund, or legal or administrative entity administering any such pool or fund created and authorized under this section shall be audited annually in accordance with standards established by the comptroller of the treasury. A copy of the audit shall be filed with the comptroller as soon as practical, but in no event later than one hundred twenty (120) days following the end of the pool's or reserve fund's fiscal year. Notwithstanding this subdivision (g)(1), the operations, books and records of any pool or reserve fund shall be subject to audit and review by the comptroller or any person authorized by the comptroller. The commissioner of commerce and insurance shall assist the comptroller in the audit upon the written request by the comptroller.

(2) The comptroller of the treasury is authorized to charge reasonable fees to cover expenses incurred by the comptroller or the commissioner of commerce and insurance in the course of audits or investigations pursuant to this section.

(3) Any information obtained by or disclosed to the commissioner of commerce and insurance pursuant to an examination, audit or investigation conducted under this chapter shall be confidential and shall not be disclosed to the public. Any information obtained by or disclosed to the comptroller shall be considered working papers of the comptroller and, therefore, are confidential. Furthermore, the commissioner of commerce and insurance shall not disclose any information relating to the reserving of particular claims, if disclosure would likely prejudice the fund in settling the claim; provided, however, that this shall not apply to any examination report, audit or investigative report prepared by the commissioner of commerce and insurance or the comptroller, or to any rebuttal to such reports submitted by or on behalf of the fund examined. However, nothing contained in this subdivision (g)(3) shall be construed as prohibiting the commissioner of commerce and insurance or the comptroller from disclosing the information listed in this subdivision (g)(3), or any matters relating to that information, to state agencies of this or any other state, or to law enforcement officials of this or any other state or agency of the federal government at any time.

(4) Any person knowingly or willfully testifying falsely in reference to any matter material to the investigation, audit, examination or inquiry commits a Class A misdemeanor.

(5) Any director, trustee, officer, agent, or employee of an insurance pool or reserve fund, or any other person who knowingly or willfully makes any false certificate, entry, or memorandum upon any of the books or papers of any insurance pool or reserve fund upon any statement filed or offered to be filed in the department or used in the course of any examination, inquiry or investigation with the intent to deceive the commissioner of commerce and insurance or any person appointed by the commissioner or the comptroller to make the examination, commits a Class A misdemeanor.

29-20-401. Creation of reserve or special fund — Pooling agreements with other governmental entities — Election to self-insurer. [Applicable to injuries occurring prior to July 1, 2014.]

(a) Any governmental entity may create and maintain a reserve or special fund for the purpose of making payment of claims against it payable pursuant to this chapter or for the purpose of purchasing liability insurance to protect it from any and all risks created by this chapter.

(b)(1) Any two (2) or more governmental entities are hereby granted the power, any provision of law to the contrary notwithstanding, to enter into an agreement or agreements with one another for joint or cooperative action to pool their financial and administrative resources for the purpose of providing to the participating governmental entities risk management, insurance, reinsurance, which is defined to mean reinsurance by an entity created under this section, self-insurance, or any combination thereof for any and all of the areas of liability or insurability, or both, for such governmental entities, including, but not limited to, the liabilities created by this chapter (including general and professional liabilities), liabilities under the workers' compensation law, liabilities under the unemployment compensation law, and motor vehicle insurance. All such agreements shall be made pursuant to title 12, chapter 9.

(2) The power to enter into agreements hereunder specifically includes the power to establish a separate legal or administrative entity or entities to effectuate such agreements or, if no separate legal or administrative entity or entities are established, to designate an administrator of the pooled financial and administrative resources. An entity so established, or an administrator so designated, shall be deemed to have been appointed by the governing body of the governmental entity for the purposes of § 29-20-309, and this appointment shall not be considered as a violation of the provision of § 12-9-104(a) dealing with the powers, privileges or authority of officers of political subdivisions.

(3) Each such agreement shall be approved by appropriate resolution or as otherwise permitted by the laws of the participating governmental entities before any such agreement shall be effective or binding.

(4) In addition to those items included in any such agreement pursuant to § 12-9-104(c), the agreement may specify: the nature and scope of insurance coverage and coverages to be provided; the method and methods by which coverage and coverages are to be extended, contributions (which term shall include all premiums or assessments) levied and paid, claims administered and defended against; the procedures by which financial reserves shall be established and maintained; and, any other provisions necessary for proper administration of the pooled resources.

(5) Such agreements may provide for the pooling of losses and any other expenses so that any or all of the funds contributed by a participating governmental entity may be used to pay claims against or with respect to any of the other participating governmental entities and any costs or expenses, or both, relative to any entity authorized by this part. The general assembly hereby finds and determines that all contributions of financial and administrative resources made pursuant to an agreement as authorized herein are made for a public and governmental purpose and that all such

contributions benefit the contributing governmental entity.

(c)(1) Any governmental entity choosing to create and maintain a special fund, or to enter into an agreement, as authorized in this section for the purpose of insuring against the liabilities created by this chapter, shall be deemed to be electing to self-insure against the liabilities established in this chapter and shall, therefore, have the same limits of liability as if the minimum limits of liability established in § 29-20-403 had been purchased.

(2) Should any governmental entity choose to enter into an agreement for the purpose of insuring for the liabilities of the Workers' Compensation Law, as authorized in this section, it shall be deemed to have accepted the Workers' Compensation Law pursuant to § 50-6-106(5), and it shall be deemed to have insured for such liabilities with an association, organization or corporation authorized to transact the business of workers' compensation insurance pursuant to § 50-6-405(a)(1). Certificates of compliance issued by the legal or administrative entity created by the agreement between the governmental entities for this purpose shall be accepted by the department of labor and workforce development.

(d)(1) No special fund established by an agreement authorized under this section and under title 12, chapter 9, shall be considered as an "insurance company" nor shall any contribution of financial or administrative resources to such a special fund be considered a "premium" or "gross premium" under title 56 for any purpose, including regulation and taxation.

(2) There shall be maintained in any special fund created pursuant to this section such an amount of reserve funds as is deemed adequate by the department in accordance with reserve standards applicable to private insurance companies pursuant to title 56. The department of commerce and insurance is authorized to charge reasonable fees to cover expenses incurred in the course of investigations and audits conducted for the purpose of making this determination, and is authorized to promulgate such rules and regulations necessary to accomplish the purposes of this subsection (d).

(e) Any special fund or legal or administrative entity created pursuant to this part shall have the power to reinsure, in whole or in part, any of the areas of liability or insurability of governmental entities or governmental employees. Notwithstanding any other law to the contrary, this power to reinsure may be exercised through the creation, operation, or ownership, in whole or in part, of reinsuring entities, or by entering into contracts or treaties of reinsurance with reinsuring entities, or by any combination thereof; provided, that the reinsuring entity is lawfully created under the laws of its jurisdiction. Any reinsuring entity created pursuant to this part may be created only by governmental entities as defined in this chapter or by an entity created by governmental entities pursuant to this part and the Interlocal Cooperation Act, compiled in title 12, chapter 9. Any such reinsuring entity may reinsure only any areas of liability or insurability of governmental entities or governmental employees.

(f)(1) Any legal or administrative entity created by an agreement between governmental entities to pool their resources to provide workers' compensation coverage is entitled to participate in the second injury fund established in § 50-6-208 upon the payment to the department of labor and workforce development of an annual fee. The annual fee shall be a percentage of the total financial contributions for workers' compensation coverage received from participating governmental entities and earned during a calendar year. The percentage shall equal the percentage of insurance company premiums,

as measured by the premium tax, allocated and paid out by the second injury fund pursuant to § 50-6-208(c) and (d), during the same year, subject to a maximum of two percent (2%).

(2) If any such legal or administrative entity participates in the second injury fund as provided herein and then ceases participation, either the second injury fund shall remain liable for a claim for injuries to an employee insured by the entity that occurred prior to the termination of participation and for which benefits had not been paid prior to the termination; provided, that the legal or administrative entity shall promptly reimburse the second injury fund for the actual amount of any such benefits subsequently paid by the second injury fund; or, within thirty (30) days of the cessation of such participation, the legal and administrative entity may elect to assume complete liability for such a claim. This assumption shall release the second injury fund from any duty to defend or liability, but in either case, the recovery by any employee shall not be reduced or defeated.

(g)(1) An insurance pool, special fund, reserve fund, or legal or administrative entity administering any such pool or fund created and authorized under this section shall be audited annually in accordance with standards established by the comptroller of the treasury. A copy of the audit shall be filed with the comptroller as soon as practical, but in no event later than one hundred twenty (120) days following the end of the pool's or reserve fund's fiscal year. Notwithstanding this subdivision (g)(1), the operations, books and records of any pool or reserve fund shall be subject to audit and review by the comptroller or any person authorized by the comptroller. The commissioner of commerce and insurance shall assist the comptroller in the audit upon the written request by the comptroller.

(2) The comptroller of the treasury is authorized to charge reasonable fees to cover expenses incurred by the comptroller or the commissioner of commerce and insurance in the course of audits or investigations pursuant to this section.

(3) Any information obtained by or disclosed to the commissioner of commerce and insurance pursuant to an examination, audit or investigation conducted under this chapter shall be confidential and shall not be disclosed to the public. Any information obtained by or disclosed to the comptroller shall be considered working papers of the comptroller and, therefore, are confidential. Furthermore, the commissioner of commerce and insurance shall not disclose any information relating to the reserving of particular claims, if disclosure would likely prejudice the fund in settling the claim; provided, however, that this shall not apply to any examination report, audit or investigative report prepared by the commissioner of commerce and insurance or the comptroller, or to any rebuttal to such reports submitted by or on behalf of the fund examined. However, nothing contained in this subdivision (g)(3) shall be construed as prohibiting the commissioner of commerce and insurance or the comptroller from disclosing the information listed in this subdivision (g)(3), or any matters relating to that information, to state agencies of this or any other state, or to law enforcement officials of this or any other state or agency of the federal government at any time.

(4) Any person knowingly or willfully testifying falsely in reference to any matter material to the investigation, audit, examination or inquiry commits a Class A misdemeanor.

(5) Any director, trustee, officer, agent, or employee of an insurance pool or reserve fund, or any other person who knowingly or willfully makes any false

certificate, entry, or memorandum upon any of the books or papers of any insurance pool or reserve fund upon any statement filed or offered to be filed in the department or used in the course of any examination, inquiry or investigation with the intent to deceive the commissioner of commerce and insurance or any person appointed by the commissioner or the comptroller to make the examination, commits a Class A misdemeanor.

29-34-801. Short title. [Repealed effective July 1, 2022. See Compiler's Note.]

This part shall be known and may be cited as the "Tennessee COVID-19 Recovery Act."

29-34-802. Part definitions. [Repealed effective July 1, 2022. See Compiler's Note.]

(a) As used in this part:

(1) "Arising from COVID-19" means caused by or resulting from the actual, alleged, or possible exposure to or contraction of COVID-19, or caused by or resulting from services, treatment, or other actions in response to COVID-19, including, but not limited to:

(A) Implementing policies and procedures to prevent or minimize the spread of COVID-19;

(B) Testing;

(C) Monitoring, collecting, reporting, tracking, tracing, disclosing, or investigating COVID-19 exposure or other COVID-19-related information;

(D) Using, designing, manufacturing, providing, donating, or servicing precautionary, diagnostic, collection, or other health equipment or supplies, such as personal protective equipment;

(E) Closing or partially closing to prevent or minimize the spread of COVID-19;

(F) Delaying or modifying the schedule or performance of any medical procedure; or

(G) Providing services or products in response to government appeal or repurposing operations to address an urgent need for personal protective equipment, sanitation products, or other products necessary to protect the public;

(2) "COVID-19" means the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019, commonly referred to as COVID-19, including any mutation of SARS-CoV-2 or COVID-19;

(3) "Healthcare provider" means a healthcare practitioner, person, or facility licensed, authorized, certified, registered, or regulated under title 33, title 63, title 68, federal law or order, or an executive order of the governor, including but not limited to any employees, agents, or contractors of such a practitioner, person, or facility, and residents, interns, students, fellows, or volunteers of an accredited school or of such school's affiliated teaching or training hospitals or programs in Tennessee; and

(4) "Person" means an individual, healthcare provider, sole proprietorship, corporation, limited liability company, partnership, trust, religious organization, association, nonprofit organization described in § 501(c) of the Internal Revenue Code that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), or any other legal

entity whether formed as a for-profit or not-for-profit entity.

(b) Notwithstanding any law to the contrary, there is no claim against any person for loss, damage, injury, or death arising from COVID-19, unless the claimant proves by clear and convincing evidence that the person proximately caused the loss, damage, injury, or death by an act or omission constituting gross negligence or willful misconduct.

(c)(1) In any claim alleging loss, damage, injury, or death arising from COVID-19, the claimant must file a verified complaint pleading specific facts with particularity from which a finder of fact could reasonably conclude that the alleged loss, damage, injury, or death was caused by the defendant's gross negligence or willful misconduct.

(2) In any claim alleging loss, damage, injury, or death based on exposure to or contraction of COVID-19, the claimant must also file a certificate of good faith stating that the claimant or claimant's counsel has consulted with a physician duly licensed to practice in the state or a contiguous bordering state, and the physician has provided a signed written statement that the physician is competent to express an opinion on exposure to or contraction of COVID-19 and, upon information and belief, believes that the alleged loss, damage, injury, or death was caused by an alleged act or omission of the defendant or defendants.

(3) The failure of a claimant to satisfy the requirements of subdivisions (c)(1) and (2), if required by subdivision (c)(2), shall, upon motion, make the action subject to dismissal with prejudice.

(d) This part does not:

(1) Create a cause of action;

(2) Eliminate a required element of any existing cause of action;

(3) Affect workers' compensation claims under the Workers' Compensation Law, compiled in title 50, chapter 6, including the exclusive application of such law; or

(4) Amend, repeal, alter, or affect any immunity, defense, limitation of liability, or procedure available or required under law or contract.

29-39-104. Punitive damages.

(a) In a civil action in which punitive damages are sought:

(1) Punitive damages may only be awarded if the claimant proves by clear and convincing evidence that the defendant against whom punitive damages are sought acted maliciously, intentionally, fraudulently or recklessly;

(2) In an action in which the claimant seeks an award of punitive damages, the trier of fact in a bifurcated proceeding shall first determine whether compensatory damages are to be awarded and in what amount and by special verdict whether each defendant's conduct was malicious, intentional, fraudulent or reckless and whether subdivision (a)(7) applies;

(3) If a jury finds that the defendant engaged in malicious, intentional, fraudulent, or reckless conduct, then the court shall promptly commence an evidentiary hearing in which the jury shall determine the amount of punitive damages, if any;

(4) In all cases involving an award of punitive damages, the trier of fact, in determining the amount of punitive damages, shall consider, to the extent relevant, the following: the defendant's financial condition and net worth; the nature and reprehensibility of the defendant's wrongdoing; the impact of

the defendant's conduct on the plaintiff; the relationship of the defendant to the plaintiff; the defendant's awareness of the amount of harm being caused and the defendant's motivation in causing such harm; the duration of the defendant's misconduct and whether the defendant attempted to conceal such misconduct; the expense plaintiff has borne in attempts to recover the losses; whether the defendant profited from the activity, and if defendant did profit, whether the punitive award should be in excess of the profit in order to deter similar future behavior; whether, and the extent to which, defendant has been subjected to previous punitive damage awards based upon the same wrongful act; whether, once the misconduct became known to defendant, defendant took remedial action or attempted to make amends by offering a prompt and fair settlement for actual harm caused; and any other circumstances shown by the evidence that bear on determining a proper amount of punitive damages. The trier of fact shall be instructed that the primary purpose of punitive damages is to punish the wrongdoer and deter similar misconduct in the future by the defendant and others while the purpose of compensatory damages is to make the plaintiff whole;

(5) Punitive or exemplary damages shall not exceed an amount equal to the greater of:

(A) Two (2) times the total amount of compensatory damages awarded; or

(B) Five hundred thousand dollars ($500,000);

(6) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not be disclosed to the jury, but shall be applied by the court to any punitive damages verdict;

(7) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not apply to actions brought for damages or an injury:

(A) If the defendant had a specific intent to inflict serious physical injury, and the defendant's intentional conduct did, in fact, injure the plaintiff;

(B) If the defendant intentionally falsified, destroyed or concealed records containing material evidence with the purpose of wrongfully evading liability in the case at issue; provided, however, that this subsection (a) does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery, nor does it apply to the management of records in the normal course of business or in compliance with the defendant's document retention policy or state or federal regulations;

(C) If the defendant was under the influence of alcohol, drugs or any other intoxicant or stimulant, resulting in the defendant's judgment being substantially impaired, and causing the injuries or death. For purposes of this subsection (a), a defendant shall not be deemed to be under the influence of drugs or any other intoxicant or stimulant, if the defendant was using lawfully prescribed drugs administered in accordance with a prescription or over-the-counter drugs in accordance with the written instructions of the manufacturer; or

(D) If the defendant's act or omission results in the defendant being convicted of a felony under the laws of this state, another state, or under federal law, and that act or omission caused the damages or injuries;

(8) If there is a disputed issue of fact, the trier of fact, by special verdict, shall determine whether the exceptions set forth in subdivision (a)(7) apply

to the defendant and the cause of action;

(9) The culpability of a defendant for punitive damages whose liability is alleged to be vicarious shall be determined separately from that of any alleged agent, employee or representative.

(b) Nothing in this section shall be construed as creating a right to an award of punitive damages or to limit the duty of the court, or the appellate courts, to scrutinize all punitive damage awards, ensure that all punitive damage awards comply with applicable procedural, evidentiary and constitutional requirements, and to order remittitur when appropriate.

(c) The seller of a product other than the manufacturer shall not be liable for punitive damages, unless the seller exercised substantial control over that aspect of the design, testing, manufacture, packaging or labeling of the product that caused the harm for which recovery of damages is sought; the seller altered or modified the product and the alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought; or the seller had actual knowledge of the defective condition of the product at the time the seller supplied the same.

(d)(1) Except as provided in subdivision (d)(2), punitive damages shall not be awarded in a civil action involving a drug or device if the drug or device which allegedly caused the claimant's harm:

(A) Was manufactured and labeled in relevant and material respects in accordance with the terms of an approval or license issued by the federal food and drug administration under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040, compiled in 21 U.S.C. §§ 301-392, as amended, or the Public Health Service Act, 53 Stat. 682, compiled in 42 U.S.C. §§ 201-300cc-15; or

(B) Was an over-the-counter drug or device marketed pursuant to federal regulations, was generally recognized as safe and effective and as not being misbranded pursuant to the applicable federal regulations, and satisfied in relevant and material respects each of the conditions contained in the applicable regulations and each of the conditions contained in an applicable monograph.

(2) Subdivision (d)(1) shall not apply in an action against a manufacturer of a drug or device, if, at any time before the event alleged to have caused the harm, the manufacturer, in violation of applicable regulations of the food and drug administration:

(A) Withheld from the food and drug administration information known to be material and relevant to the harm that the claimant allegedly suffered; or

(B) Misrepresented to the food and drug administration information of that type.

(3) For purposes this subsection (d):

(A) "Device" has the same meaning as in the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040, 1041, codified in 21 U.S.C. § 321(h);

(B) "Drug" has the same meaning as in the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040, 1041, codified in 21 U.S.C. § 321(g)(1).

(e) Punitive damages shall not be awarded in any civil action when a defendant demonstrates by a preponderance of the evidence that it was in substantial compliance with applicable federal and state regulations setting forth specific standards applicable to the activity in question and intended to protect a class of persons or entities that includes the plaintiff, if those

regulations were in effect at the time the activity occurred.

(f) Nothing contained in this chapter shall be construed to limit a court's authority to enter judgment as a matter of law prior to or during a trial on a claim for punitive damages.

(g)(1) Notwithstanding subdivision (a)(9), punitive damages may be awarded against a defendant based on vicarious liability for the acts or omissions of an agent or employee only if the finder of fact determines by special verdict based on clear and convincing evidence that one or more of the following has occurred:

(A) The act or omission was committed by a person employed in a management capacity while that person was acting within the scope of employment;

(B) The defendant was reckless in hiring, retaining, supervising or training the agent or employee and that recklessness was the proximate cause of the act or omission that caused the loss or injury; or

(C) The defendant authorized, ratified or approved the act or omission with knowledge or conscious or reckless disregard that the act or omission may result in the loss or injury.

(2) Nothing in this subsection (g) shall be construed to expand or increase the scope of vicarious liability or punitive damages liability under Tennessee law.

(3) For purposes of this subsection (g), "a person employed in a management capacity" means an employee with authority to set policy and exercise control, discretion, and independent judgment over a significant scope of the employer's business.

29-40-115. Engagement and compensation of professional.

(a) With court approval, a receiver may engage an attorney, accountant, appraiser, auctioneer, broker, or other professional to assist the receiver in performing a duty or exercising a power of the receiver. The receiver shall disclose to the court:

(A) The identity and qualifications of the professional;

(B) The scope and nature of the proposed engagement;

(C) Any potential conflict of interest; and

(D) The proposed compensation.

(b)(1) A person is not disqualified from engagement under this section solely because of the person's engagement by, representation of, or other relationship with the receiver, a creditor, or a party.

(2) This chapter does not prevent the receiver from serving in the receivership as an attorney, accountant, auctioneer, or broker when authorized by law.

(c)(1) A receiver or professional engaged under subsection (a) shall file with the court an itemized statement of the time spent, work performed, and billing rate of each person that performed the work and an itemized list of expenses.

(2) The receiver shall pay the amount approved by the court.

33-6-103. Priority population — Standards of care — Funding — Legislative intent — Contract with licensed community mental health agency.

(a) The department shall identify adults with severe disabling mental

illness and children with serious emotional disturbance.

(b) Persons described in subsection (a) are a priority population for the department's mental health services and supports. The department shall set the array of services and supports for this priority population annually in its plan. The state will fund and the department will maintain the array of services and supports for persons in this priority population. Consistent with applicable eligibility requirements, the state may provide the funding for the services through the medicaid program or any waiver granted under the medicaid program, specifically including TennCare, other public funds, or private funds.

(c) It is the legislative intent that the department of mental health and substance abuse services maintain the funding amount and the extent of services of the behavioral health safety net of the state at least at the annualized levels provided as of January 1, 2009. In the event that appropriations to the department are not sufficient to continue funding these critical services at a level at least equivalent to the services being provided as of January 1, 2009, then the department shall provide a report to the planning and policy council created by § 33-1-401 and the fiscal review committee created by § 3-7-101. The report shall identify all means the department intends to use to increase resources available.

(d) The department may contract with any licensed community mental health agency for the provision of services under the behavioral health safety net, as long as the community mental health agency is able to sufficiently demonstrate to the department that the community mental health agency is able to provide to individuals who will be served under the behavioral health safety net all of the behavioral health services that are included within adult behavioral health services for the seriously and persistently mentally ill, as defined in § 71-5-103.

36-1-102. Part definitions.

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

(1)(A) For purposes of terminating the parental or guardian rights of a parent or parents or a guardian or guardians of a child to that child in order to make that child available for adoption, "abandonment" means that:

(i) For a period of four (4) consecutive months immediately preceding the filing of a proceeding, pleading, petition, or any amended petition to terminate the parental rights of the parent or parents or the guardian or guardians of the child who is the subject of the petition for termination of parental rights or adoption, that the parent or parents or the guardian or guardians either have failed to visit or have failed to support or have failed to make reasonable payments toward the support of the child;

(ii)*(a)* The child has been removed from the home or the physical or legal custody of a parent or parents or guardian or guardians by a court order at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and the child was placed in the custody of the department or a licensed child-placing agency;

(b) The juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a

licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child's situation prevented reasonable efforts from being made prior to the child's removal; and

(c) For a period of four (4) months following the physical removal, the department or agency made reasonable efforts to assist the parent or parents or the guardian or guardians to establish a suitable home for the child, but that the parent or parents or the guardian or guardians have not made reciprocal reasonable efforts to provide a suitable home and have demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date. The efforts of the department or agency to assist a parent or guardian in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the efforts of the parent or guardian toward the same goal, when the parent or guardian is aware that the child is in the custody of the department;

(iii) A biological or legal father has either failed to visit or failed to make reasonable payments toward the support of the child's mother during the four (4) months immediately preceding the birth of the child; provided, that in no instance shall a final order terminating the parental rights of a parent as determined pursuant to this subdivision (1)(A)(iii) be entered until at least thirty (30) days have elapsed since the date of the child's birth;

(iv) A parent or guardian is incarcerated at the time of the filing of a proceeding, pleading, petition, or amended petition to terminate the parental rights of the parent or guardian of the child who is the subject of the petition for termination of parental rights or adoption, or a parent or guardian has been incarcerated during all or part of the four (4) consecutive months immediately preceding the filing of the action and has:

(a) Failed to visit, has failed to support, or has failed to make reasonable payments toward the support of the child for four (4) consecutive months immediately preceding the parent's or guardian's incarceration;

(b) Failed to visit, has failed to support, or has failed to make reasonable payments toward the support of the child during an aggregation of the first one hundred twenty (120) days of nonincarceration immediately preceding the filing of the action; or

(c) Has engaged in conduct prior to incarceration that exhibits a wanton disregard for the welfare of the child; or

(v) The child, as a newborn infant aged seventy-two (72) hours or less, was voluntarily left at a facility by such infant's mother pursuant to § 68-11-255; and, for a period of thirty (30) days after the date of voluntary delivery, the mother failed to visit or seek contact with the infant; and, for a period of thirty (30) days after notice was given under § 36-1-142(e), and no less than ninety (90) days cumulatively, the mother failed to seek contact with the infant through the department or to revoke her voluntary delivery of the infant;

(B) For purposes of this subdivision (1), "token support" means that the support, under the circumstances of the individual case, is insignificant

given the parent's means;

(C) For purposes of this subdivision (1), "token visitation" means that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child;

(D) For purposes of this subdivision (1), "failed to support" or "failed to make reasonable payments toward such child's support" means the failure, for a period of four (4) consecutive months, to provide monetary support or the failure to provide more than token payments toward the support of the child. That the parent had only the means or ability to make small payments is not a defense to failure to support if no payments were made during the relevant four-month period;

(E) For purposes of this subdivision (1), "failed to visit" means the failure, for a period of four (4) consecutive months, to visit or engage in more than token visitation. That the parent had only the means or ability to make very occasional visits is not a defense to failure to visit if no visits were made during the relevant four-month period;

(F) Abandonment may not be repented of by resuming visitation or support subsequent to the filing of any petition seeking to terminate parental or guardianship rights or seeking the adoption of a child;

(G) "Abandonment" and "abandonment of an infant" do not have any other definition except that which is set forth in this section, it being the intent of the general assembly to establish the only grounds for abandonment by statutory definition. Specifically, it shall not be required that a parent be shown to have evinced a settled purpose to forego all parental rights and responsibilities in order for a determination of abandonment to be made. Decisions of any court to the contrary are hereby legislatively overruled;

(H) Every parent who is eighteen (18) years of age or older is presumed to have knowledge of a parent's legal obligation to support such parent's child or children;

(I) For purposes of this subdivision (1), it shall be a defense to abandonment for failure to visit or failure to support that a parent or guardian's failure to visit or support was not willful. The parent or guardian shall bear the burden of proof that the failure to visit or support was not willful. Such defense must be established by a preponderance of evidence. The absence of willfulness is an affirmative defense pursuant to Rule 8.03 of the Tennessee Rules of Civil Procedure;

(J) For purposes of this subdivision (1), a period of incarceration lasting less than seven (7) consecutive days must be counted as days of nonincarceration; and

(K) For purposes of this subdivision (1), aggregation is accomplished by counting the days preceding, following, and in-between each period of incarceration of at least seven (7) consecutive days;

(2) "Abandonment of an infant" means, for purposes of terminating parental or guardian rights, "abandonment" of a child under one (1) year of age;

(3) "Adopted person" means:

(A) Any person who is or has been adopted under this part or under the laws of any state, territory, or foreign country; and

(B) For purposes of the processing and handling of, and access to, any adoption records, sealed adoption records, sealed records, post-adoption records, or adoption assistance records pursuant to this part, "adopted person" also includes a person for whom any of those records is maintained by the court, other persons or entities or persons authorized to conduct a surrender or revocation of surrender pursuant to this part, or which records are maintained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or the department of health or other information source, whether an adoption petition was ever filed, whether an adoption order was ever entered, whether the adoption was ever dismissed, whether the adoption was ever finalized, or whether the adoption was attempted or was otherwise never completed due to the abandonment of any necessary activity related to the completion of the adoption;

(4) "Adoption" means the social and legal process of establishing by court order, other than by paternity or legitimation proceedings or by voluntary acknowledgment of paternity, the legal relationship of parent and child;

(5) "Adoption assistance" means the federal or state programs that exist to provide financial assistance to adoptive parents to enable them to provide a permanent home to a special needs child as defined by the department;

(6) "Adoption record" means:

(A)(i) The records, reports, or other documents maintained in any medium by the judge or clerk of the court, or by any other person pursuant to this part who is authorized to witness the execution of surrenders or revocations of surrenders, which records, reports, or documents relate to an adoption petition, a surrender or parental consent, a revocation of a surrender or parental consent, or which reasonably relate to other information concerning the adoption of a person, and which information in such records, reports, or documents exists during the pendency of an adoption or a termination of parental rights proceeding, or which records, reports, or documents exist subsequent to the conclusion of those proceedings, even if no order of adoption or order of dismissal is entered, but which records, reports or documents exist prior to those records, reports, or documents becoming a part of a sealed record or a sealed adoption record pursuant to § 36-1-126; or

(ii) The records, reports, or documents maintained in any medium by the department's social services division, or by a licensed or chartered child-placing agency or licensed clinical social worker, and which records, reports, or documents contain any social, medical, legal, or other information concerning an adopted person, a person who has been placed for adoption or a person for whom adoptive placement activities are currently occurring, and which information in such records, reports, or documents exists during the pendency of an adoption or termination of parental rights proceeding, or which exists subsequent to the conclusion of those proceedings, even if no order of adoption or dismissal of an adoption has been entered, but which records, reports, or documents exist prior to those records, reports, or documents becoming sealed records or sealed adoption records pursuant to § 36-1-126;

(B) The adoption record is confidential and is not subject to disclosure by the court, by a licensed child-placing agency, by a licensed clinical social worker or by any other person or entity, except as otherwise permitted by

this part; however, prior to the record's becoming a sealed record or a sealed adoption record pursuant to § 36-1-126, the adoption record may be disclosed as may be necessary for purposes directly related to the placement, care, treatment, protection, or supervision by the legal custodian, legal guardian, conservator, or other legally authorized caretaker of the person who is the subject of the adoption proceeding, or as may be necessary for the purposes directly related to legal proceedings involving the person who is subject to the jurisdiction of a court in an adoption proceeding or other legal proceeding related to an adoption, including terminations of parental rights, or as may otherwise be necessary for use in any child or adult protective services proceedings concerning the person about whom the record is maintained pursuant to titles 37 and 71;

(C) The adoption record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(7) "Adoptive parent or parents" means the person or persons who have been made the legal parents of a child by the entry of an order of adoption under this part or under of the laws of any state, territory or foreign country;

(8) "Adult" means any person who is eighteen (18) years of age or older. An adult may be adopted as provided in this part;

(9) "Aggravated circumstances" means abandonment, abandonment of an infant, aggravated assault, aggravated kidnapping, especially aggravated kidnapping, aggravated child abuse and neglect, aggravated sexual exploitation of a minor, especially aggravated sexual exploitation of a minor, aggravated rape, rape, rape of a child, incest, or severe child abuse, as defined at § 37-1-102;

(10) "Biological parents" means the woman and man who physically or genetically conceived the child who is the subject of the adoption or termination proceedings or who conceived the child who has made a request for information pursuant to this part;

(11) "Biological relative" means:

(A) For adopted persons for whom any adoption records, sealed adoption records, sealed records, or post-adoption records are maintained: the biological parents or child of an adopted person or person for whom any adoption record, sealed record, sealed adoption record or post-adoption record is maintained, the brothers or sisters of the whole or half blood, the blood grandparents of any degree, the blood aunts or uncles, or the blood cousins of the first degree, of such persons; and

(B) For persons about whom any background information is sought as part of the surrender or parental consent process: the biological parents of the child, the brothers or sisters of the whole or half blood, the blood

grandparents of any degree, or the blood aunts or uncles;

(12) "Chartered child-placing agency" means an agency that had received a charter from the state of Tennessee through legislative action or by incorporation for the operation of an entity or a program of any type that engaged in the placement of children for foster care or residential care as part of a plan or program for which those children were or could have been made available for adoptive placement and that may have, at sometime during its existence, become subject to any licensing requirements by the department or its predecessors;

(13) "Child" or "children" means any person or persons under eighteen (18) years of age;

(14) "Child-caring agency" means any agency authorized by law to care for children outside their own homes for twenty-four (24) hours per day;

(15) "Consent" means:

(A) The written authorization to relinquish a child for adoption, which is given by an agency such as the department or a public child care agency of another state or country or licensed child-placing agency of this or another state, which agency has the authority, by court order or by surrender or by operation of law or by any combination of these, to place a child for adoption and to give permission for the adoption of that child by other persons;

(B) The written permission of a parent pursuant to § 36-1-117(f) to permit the adoption of that parent's child by that parent's relative or by the parent's spouse who is the child's stepparent;

(C) The process as described in § 36-1-117(g) by which a parent co-signs an adoption petition, with the prospective adoptive parents, for the purpose of agreeing to make the child available for adoption by the co-petitioning prospective adoptive parents, and that permits the court to enter an order of guardianship to give the adoptive parents custody and supervision of the child pending the completion or dismissal of the adoption proceedings or pending revocation of the consent by the parent. This process shall be called a "parental consent";

(D) The permission of a child fourteen (14) years of age or older given to the court, in chambers, before the entry of an order of adoption of such child;

(E) The permission of a guardian ad litem for a disabled child or an adult permitting the adoption of those persons pursuant to the procedures of § 36-1-117(i) and (j);

(F) The sworn, written permission of an adult person filed with the court where the adoption petition is filed that seeks the adoption of the adult; or

(G) The agreement for contact by the parties to the post-adoption records search procedures that may be required in §§ 36-1-127 — 36-1-141;

(16) "Conservator" means a person or entity appointed by a court to provide partial or full supervision, protection, and assistance of the person or property, or both, of a disabled adult pursuant to title 34, chapter 1 or the equivalent law of another state;

(17)(A) "Court" means the chancery or circuit court; provided, that "court" includes the juvenile court for purposes of the authority to accept the surrender or revocation of surrenders of a child and to issue any orders of

reference, orders of guardianship, or other orders resulting from a surrender or revocation that it accepts and for purposes of authorizing the termination of parental rights pursuant to § 36-1-113; title 37, chapter 1, part 1; and title 37, chapter 2, part 4;

(B) All appeals of any orders relative to the juvenile court's actions in taking a surrender or revocation or in terminating parental rights shall be made to the court of appeals as provided by law; or

(C) A juvenile court magistrate, appointed by the juvenile court judge pursuant to title 37, shall have authority to take a surrender of a child and to take a revocation of such surrender;

(18) "Court report" means the report to the adoption or surrender court in response to an order of reference that describes to the court the status of the child and the prospective adoptive parents or the persons to whom the child is surrendered. Such a report may be preliminary, supplementary, or final in nature. The court report shall not include the home study or preliminary home study, but instead shall include a summary of such study;

(19) "Department" means the department of children's services or any of its divisions or units;

(20) "Eligible person" means, for purposes of §§ 36-1-125 — 36-1-141, a person who is verified by the department as being in the class of individuals who is permitted by this part to receive access to records;

(21) "Final court report" means a written document completed by the department or a licensed child-placing agency or licensed clinical social worker after submission of any prior court reports in response to the court's order of reference. It gives information concerning the status of the child in the home of the prospective adoptive parents and gives a full explanation to the court of the suitability of the prospective adoptive parent or parents to adopt the child who is the subject of the adoption petition. The final court report is designed to bring the status of the proposed adoptive home and the child up to date immediately prior to finalization of the adoption and should be the last report the court receives before finalization of the adoption by entry of an order of adoption;

(22) "Financially able" means that the petitioners for adoption of a child are able, by use of any and all income and economic resources of the petitioners, including, but not limited to, assistance from public or private sources, to ensure that any physical, emotional, or special needs of the child are met;

(23) "Foster care" has the meaning given to that term in § 37-1-102; provided, that no plan or permanency plan, as defined in § 37-2-402, shall be required in the case of foster care provided by or in any agency, institution or home in connection with an adoption of a child, so long as a petition for the adoption of that child by an individual or individuals to whom care of that child has been given is filed in a court of competent jurisdiction within six (6) months of the time that child first comes into the care of the agency, institution or home;

(24) "Foster parent" has the meaning given to that term in § 37-1-102;

(25)(A) "Guardian" means a person or entity appointed by a court to provide care, custody, control, supervision, and protection for a child, and authorized by the court to adopt or consent to the adoption of the child as a result of a surrender, parental consent, or termination of parental rights;

(B) "Guardian" also means a person or entity authorized by a court to adopt or consent to the adoption of a child upon proof that the child is

without any living person entitled to notice pursuant to § 36-1-117(a);

(C) For purposes of this part, "guardian" does not include:

(i) A person or entity appointed guardian of a child by a juvenile court pursuant to § 37-1-104;

(ii) A person appointed permanent guardian of a child by a juvenile court pursuant to § 37-1-801 unless that person has also been awarded guardianship pursuant to § 36-1-113(m);

(iii) A person appointed guardian of the person or property of a child, or both, by a court of competent jurisdiction pursuant to § 34-2-101; or

(iv) Any other person or entity appointed guardian of the person or property of a child pursuant to an order that does not specifically include the right to adopt or consent to the adoption of the child and that was not entered as a result of a surrender, parental consent, termination of parental rights, or finding that the child is without any living person entitled to notice pursuant to § 36-1-117(a);

(D) The rights of the guardian must be terminated by surrender or court order or the guardian must provide consent as defined in subdivision (15)(A) before an order of adoption can be entered; provided, that a guardian's rights need not be terminated when the guardian is the petitioner in an adoption;

(E) When the department or a licensed child-placing agency is the guardian of the child, its rights must be terminated by court action or it must provide consent as defined in subdivision (15)(A) before an adoption can be ordered;

(26)(A) "Guardianship" means the status created by a court order appointing a person or entity guardian of the child. Guardianship rights are those transferred to the guardian by court order, including the right to provide care, custody, control, supervision, and protection for a child and to adopt or consent to the adoption of the child as a result of a surrender, parental consent, termination of parental rights, or finding that the child is without any living person entitled to notice pursuant to § 36-1-117(a);

(B) Guardianship granted by a court as a result of a surrender, consent, or termination of parental rights, or the equivalent law of any other jurisdiction, may be complete or partial;

(C)(i) A person or entity has complete guardianship for the purpose of permitting a court to order an adoption when all necessary parental or guardianship rights have been terminated by surrender, consent, waiver of interest, or court order, and a court with jurisdiction to do so enters an order granting guardianship to that person or entity;

(ii) Complete guardianship entitles the guardian to the right to care for the child as provided under § 37-1-140, or as otherwise provided by the court order, and permits the guardian to place the child for adoption and consent to the adoption, or to be granted an adoption of the child, without further termination of parental or guardian rights;

(iii) A prospective adoptive parent granted complete guardianship is the child's guardian for the purpose of § 37-4-201;

(D)(i) A person or entity has partial guardianship when a court with jurisdiction to do so enters an order granting guardianship to that person or entity as a result of the surrender, parental consent, or termination of parental rights of at least one (1), but not all, parents or guardians of the child, or as a result of the death of one (1) parent or

guardian when the parental or guardianship rights of the remaining parent or guardian have not been terminated by surrender, consent, waiver of interest, or court order pursuant to this part or title 37;

(ii) Partial guardianship entitles the guardian to provide care, supervision, and protection of the child pursuant to § 37-1-140, or to the extent permitted by the court order granting partial guardianship, and permits the guardian to place the child for adoption and consent to that adoption; it does not authorize the court to enter an order of adoption until all remaining parental or guardianship rights have been terminated by surrender, consent, waiver of interest, or court order;

(iii) Upon receiving partial guardianship, the department or licensed child-placing agency may place a child for adoption with prospective adoptive parents and may consent to the adoption of the child by those prospective adoptive parents; the prospective adoptive parents are required to comply with § 36-1-117 before an adoption can be granted;

(27) "Home study" means the product of a preparation process in which individuals or families are assessed by themselves and the department or licensed child-placing agency, or a licensed clinical social worker as to their suitability for adoption and their desires with regard to the child they wish to adopt. The home study shall conform to the requirements set forth in the rules of the department and it becomes a written document that is used in the decision to approve or deny a particular home for adoptive placement. The home study may be the basis on which the court report recommends approval or denial to the court of the family as adoptive parents. A court report based upon any home study conducted by a licensed child-placing agency, licensed clinical social worker or the department that has been completed or updated within one (1) year prior to the date of the surrender or order of reference shall be accepted by the court for purposes of §§ 36-1-111 and 36-1-116. The home study shall be confidential, and at the conclusion of the adoption proceeding shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138;

(28) "Interstate Compact on the Placement of Children (ICPC)" means §§ 37-4-201 — 37-4-207 relating to the placement of a child between states for the purposes of foster care or adoption. The ICPC is administered in Tennessee by the department through its state office in Nashville;

(29)(A) "Legal parent" means:

(i) The biological mother of a child;

(ii) A man who is or has been married to the biological mother of the child if the child was born during the marriage or within three hundred (300) days after the marriage was terminated for any reason, or if the child was born after a decree of separation was entered by a court;

(iii) A man who attempted to marry the biological mother of the child before the child's birth by a marriage apparently in compliance with the law, even if the marriage is declared invalid, if the child was born during the attempted marriage or within three hundred (300) days after the termination of the attempted marriage for any reason;

(iv) A man who has been adjudicated to be the legal father of the child by any court or administrative body of this state or any other state or territory or foreign country or who has signed, pursuant to §§ 24-7-113, 68-3-203(g), 68-3-302, or 68-3-305(b), an unrevoked and sworn acknowl-

edgment of paternity under Tennessee law, or who has signed such a sworn acknowledgment pursuant to the law of any other state, territory, or foreign country; or

(v) An adoptive parent of a child or adult;

(B) A man shall not be a legal parent of a child based solely on blood, genetic, or DNA testing determining that he is the biological parent of the child without either a court order or voluntary acknowledgement of paternity pursuant to § 24-7-113. Such test may provide a basis for an order establishing paternity by a court of competent jurisdiction, pursuant to the requirements of § 24-7-112;

(C) If the presumption of paternity set out in subdivisions (29)(A)(ii)-(iv) is rebutted as described in § 36-2-304, the man shall no longer be a legal parent for purposes of this chapter and no further notice or termination of parental rights shall be required as to this person;

(30) "Legal relative" means a person who is included in the class of persons set forth in the definition of "biological relative" or "legal parent" and who, at the time a request for services or information is made pursuant to §§ 36-1-127, 36-1-131, and 36-1-133 — 36-1-138 or with reference to a contract for post-adoption contact under § 36-1-145 immediately prior to the execution of a surrender or the entry of an order terminating parental rights, is related to the adopted person by any legal relationship established by law, court order, or by marriage, and includes, a step-parent and the spouse of any legal relative;

(31)(A) "Legal representative" means:

(i) The conservator, guardian, legal custodian, or other person or entity with legal authority to make decisions for an individual with a disability or an attorney-in-fact, an attorney at law representing a person for purposes of obtaining information pursuant to this part, or the legally appointed administrator, executor, or other legally appointed representative of a person's estate; or

(ii) Any person acting under any durable power of attorney for health care purposes or any person appointed to represent a person and acting pursuant to a living will;

(B) For purposes of subdivision (31)(A), "disability" means that the individual is a minor pursuant to any state, territorial, or federal law, or the law of any foreign country, or that the individual has been determined by any such laws to be in need of a person or entity to care for the individual due to that individual's physical or mental incapacity or infirmity;

(32) "Licensed child-placing agency" means any agency operating under a license to place children for adoption issued by the department, or operating under a license from any governmental authority from any other state or territory or the District of Columbia, or any agency that operates under the authority of another country with the right to make placement of children for adoption and that has, in the department's sole determination, been authorized to place children for adoption in this state;

(33) "Licensed clinical social worker" means an individual who holds a license as an independent practitioner from the board of social worker certification and licensure pursuant to title 63, chapter 23, and, in addition, is licensed by the department to provide adoption placement services;

(34) "Lineal ancestor" means any degree of grandparent or great-grand-

parent, either by birth or adoption;

(35) "Lineal descendant" means a person who descended directly from another person who is the biological or adoptive ancestor of such person, such as the daughter of the daughter's mother or granddaughter of the granddaughter's grandmother;

(36) "Order of reference" means the order from the court where the surrender is executed or filed or where the adoption petition is filed that directs the department or a licensed child-placing agency or licensed clinical social worker to conduct a home study or preliminary home study or to complete a report of the status of the child who is or may be the subject of an adoption proceeding, and that seeks information as to the suitability of the prospective adoptive parents to adopt a child;

(37) "Parent" or "parents" means any biological, legal, adoptive parent or parents or, for purposes of §§ 36-1-127 — 36-1-141, stepparents;

(38) "Parental consent" means the consent described in subdivision (15)(C);

(39) "Parental rights" means the legally recognized rights and responsibilities to act as a parent, to care for, to name, and to claim custodial rights with respect to a child;

(40) "Physical custody" means physical possession and care of a child. "Physical custody" may be constructive, as when a child is placed by agreement or court order with an agency, or purely physical, as when any family, including a formal or informal foster family, has possession and care of a child, so long as such possession was not secured through a criminal act. An agency and a family may have physical custody of the same child at the same time;

(41) "Post-adoption record" means:

(A) The record maintained in any medium by the department, separately from the sealed record or sealed adoption record and subsequent to the sealing of an adoption record or that is maintained about any sealed record or sealed adoption record. The post-adoption record contains information, including, but not limited to, adopted persons or the legal or biological relatives of adopted persons, or about persons for whom sealed records or sealed adoption records are maintained, or about persons who are seeking information about adopted persons, or persons on whom a sealed record or sealed adoption record is maintained. The post-adoption record contains information concerning, but not limited to, the contact veto registry established by this part, the written inquiries from persons requesting access to records, the search efforts of the department pursuant to the requirements of the contact veto process, the response to those search efforts by those persons sought, information that has been requested to be transmitted from or on behalf of any person entitled to access to records pursuant to this part, any updated medical information gathered pursuant to this part, court orders related to the opening of any sealed adoption records or sealed records, and personal identifying information concerning any persons subject to this part;

(B) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2), that indicates the child's date of birth, the date the agency received the child for placement, from whom the child was received and such person's last known address, with whom the child was placed and

such person's or entity's last known address, and the court in which the adoption proceeding was filed and the date the adoption order was entered or the adoption petition dismissed; and

(C) This record is confidential and shall be opened only as provided in this part;

(42)(A) "Preliminary home study" means an initial home study conducted prior to or, in limited situations, immediately after, the placement of a child with prospective adoptive parents who have not previously been subject to a home study that was conducted or updated not less than six (6) months prior to the date a surrender is sought to be executed to the prospective adoptive parents or prior to the date of the filing of the adoption petition;

(B) The preliminary home study is designed to obtain an early and temporary initial assessment of the basic ability of prospective adoptive parents to provide adequate care for a child who is proposed to be adopted by those prospective adoptive parents, and is utilized only for the purpose of approval of surrenders or for purposes of responding to an order of reference pursuant to § 36-1-116(e)(2), or for purposes of entering a guardianship order under § 36-1-116(f)(3);

(C) The preliminary home study shall consist of a minimum of two (2) visits with the prospective adoptive parents, at least one (1) of which shall be in the home of the prospective adoptive parents, and the study shall support the conclusion that no apparent reason exists why the prospective adoptive parents would not be fit parents for the child who is the subject of the adoption. To be valid for use as the basis for a court report in connection with a surrender or a parental consent, the preliminary home study must have been completed or updated within thirty (30) days prior to the date the surrender is accepted or the parental consent is executed or confirmed or the guardianship order is entered. The home study shall be confidential, and, at the conclusion of the adoption proceeding, shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138;

(43) "Prospective adoptive parents" means a nonagency person or persons who are seeking to adopt a child and who have made application with a licensed child-placing agency or licensed clinical social worker or the department for approval, or who have been previously approved, to receive a child for adoption, or who have received or who expect to receive a surrender of a child, or who have filed a petition for termination or for adoption;

(44) "Putative father" means a biological or alleged biological father of a child who, at the time of the filing of the petition to terminate the parental rights of such person, or if no such petition is filed, at the time of the filing of a petition to adopt a child, meets at least one (1) of the criteria set out in § 36-1-117(c), has not been excluded by DNA testing as described in § 24-7-112 establishing that he is not the child's biological father or that another man is the child's biological father, and is not a legal parent;

(45) "Related" means grandparents or any degree of great-grandparents, aunts or uncles, or any degree of great-aunts or great-uncles, or step-parent, or cousins of the first degree, or first cousins once removed, or any siblings of the whole or half degree or any spouse of the above listed relatives;

(46)(A) "Sealed adoption record" means:

(i) The adoption record as it exists subsequent to its transmittal to the department, or subsequent to its sealing by the court, pursuant to the requirements of § 36-1-126; or

(ii) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2);

(B) This record is confidential and shall be opened only as provided in this part;

(C) The sealed adoption record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(47)(A) "Sealed record" means:

(i) Any records, reports, or documents that are maintained at any time by a court, a court clerk, a licensed or chartered child-placing agency, licensed clinical social worker, the department, the department of health, or any other information source concerning the foster care or agency care placement, or placement for adoption, of a person by any branch of the Tennessee children's home society authorized by Public Chapter 113 (1919); or

(ii) Any records, reports, or documents maintained by a judge, a court clerk, the department, a licensed or chartered child-placing agency, a licensed clinical social worker, the department of health, or any other information source that consist of adoption records or information about an adoption proceeding or a termination of parental rights proceeding about an adopted person, or that contain information about a person who was placed for adoption but for whom no adoption order was entered or for whom an adoption proceeding was dismissed or for whom an adoption was not otherwise completed, or that contain information concerning persons in the care of any person or agency, and which records have otherwise been treated and maintained by those persons or entities under prior law, practice, policy, or custom as confidential, nonpublic adoption records, sealed adoption records, or post-adoption records of the person, or that may be otherwise currently treated and maintained by those persons or entities as confidential, nonpublic adoption records, sealed adoption records or post-adoption records of the person; or

(iii) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2);

(B) This record is confidential and shall be opened only as provided in this part;

(C) The sealed record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(48) "Sibling" means anyone having a sibling relationship;

(49) "Sibling relationship" means the biological or legal relationship between persons who have a common biological or legal parent;

(50) "Surrender" means a document executed under § 36-1-111, or under the laws of another state or territory or country, by the parent or guardian of a child, by which that parent or guardian relinquishes all parental or guardianship rights of that parent or guardian to a child, to another person or public child care agency or licensed child-placing agency for the purposes of making that child available for adoption; and

(51)(A) "Surrogate birth" means:

(i) The union of the wife's egg and the husband's sperm, which are then placed in another woman, who carries the fetus to term and who, pursuant to a contract, then relinquishes all parental rights to the child to the biological parents pursuant to the terms of the contract; or

(ii) The insemination of a woman by the sperm of a man under a contract by which the parties state their intent that the woman who carries the fetus shall relinquish the child to the biological father and the biological father's wife to parent;

(B) No surrender pursuant to this part is necessary to terminate any parental rights of the woman who carried the child to term under the circumstances described in this subdivision (51) and no adoption of the child by the biological parent or parents is necessary;

(C) Nothing in this subdivision (51) shall be construed to expressly authorize the surrogate birth process in Tennessee unless otherwise approved by the courts or the general assembly.

36-1-113. Termination of parental or guardianship rights.

(a) The chancery and circuit courts shall have concurrent jurisdiction with the juvenile court to terminate parental or guardianship rights to a child in a separate proceeding, or as a part of the adoption proceeding by utilizing any grounds for termination of parental or guardianship rights permitted in this part or in title 37, chapter 1, part 1 and title 37, chapter 2, part 4. All pleadings and records filed in the chancery and circuit courts pursuant to this section shall be placed under seal and shall not be subject to public disclosure, in the same manner as those filed in juvenile court, unless otherwise provided by

court order.

(b)(1) The prospective adoptive parent or parents, including extended family members caring for a related child, any licensed child-placing agency having physical custody of the child, the child's guardian ad litem, or the department shall have standing to file a petition pursuant to this part or title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of the child. The child's parent, pursuant to subdivision (g)(10), (g)(11), or (g)(15), shall also have standing to file a petition pursuant to this part or title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of the child. The prospective adoptive parents, including extended family members caring for a related child, shall have standing to request termination of parental or guardianship rights in the adoption petition filed by them pursuant to this part.

(2) The court shall notify the petitioning parent that the duty of future child support by the parent who is the subject of the termination petition will be forever terminated by entry of an order terminating parental rights.

(c) Termination of parental or guardianship rights must be based upon:

(1) A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established; and

(2) That termination of the parent's or guardian's rights is in the best interests of the child.

(d)(1) The petition to terminate parental rights may be made upon information and belief and shall be verified. If a parent whose parental rights are proposed for termination is the legal parent of the child, as defined in § 36-1-102, and if such parent is alleged to be deceased, then diligent efforts must be made by the petitioner to verify the death of such parent. Upon proof satisfactory to the court that such parent is deceased, no further action shall be required to terminate parental rights of that person.

(2)(A) The petition to terminate parental rights shall state:

(i) The child's birth name;

(ii) The child's age or date of birth;

(iii) The child's current residence address or county of residence or that the child is in the custody of the department or a licensed child-placing agency;

(iv) Any other facts that allege the basis for termination of parental rights and that bring the child and parties within the jurisdiction of the court;

(v) Any notice required pursuant to subdivision (d)(4) has been given; and

(vi) The medical and social history of the child and the child's biological family has been completed to the extent possible on the form promulgated by the department pursuant to § 36-1-111(k); provided, however, the absence of such completed information shall not be a barrier to termination of parental rights.

(B) Initials or pseudonyms may be used in the petition in lieu of the full names of the petitioners to promote the safety of the petitioners or of the child, with permission of the court;

(3)(A) The petition to terminate parental rights must state that:

(i) The Tennessee putative father registry has been consulted prior to the filing of the petition or will be consulted within ten (10) days

thereafter unless the biological father has been identified through DNA testing as described in § 24-7-112 and that identification is set out in the petition; and a copy of the response to this inquiry shall be provided to the court immediately upon receipt by the petitioner; and

(ii) Notice of the filing of the termination petition has been provided to the Tennessee putative father registry if the child is less than thirty (30) days old at the time the petition is filed.

(B) [Deleted by 2019 amendment.]

(C) The petition to terminate, or the adoption petition that seeks to terminate parental rights, shall state that:

(i) The petition or request for termination in the adoption petition, if granted, shall have the effect of forever severing all of the rights, responsibilities, and obligations of the parent or parents or the guardian or guardians to the child who is the subject of the order, and of the child to the parent or parents or the guardian or guardians;

(ii) The child will be placed in the guardianship of other person, persons or public or private agencies who, or that, as the case may be, shall have the right to adopt the child, or to place the child for adoption and to consent to the child's adoption; and

(iii) The parent or guardian shall have no further right to notice of proceedings for the adoption of the child by other persons and that the parent or guardian shall have no right to object to the child's adoption or thereafter, at any time, to have any relationship, legal or otherwise, with the child, except as provided by contract pursuant to § 36-1-145.

(4) The petition to terminate parental rights, if filed separately from the adoption petition, may be filed as provided in § 36-1-114. If the petition is filed in a court different from the court where there is a pending custody, dependency, neglect or abuse proceeding concerning a person whose parental rights are sought to be terminated in the petition, a notice of the filing of the petition, together with a copy of the petition, shall be sent by the petitioner to the court where the prior proceeding is pending. In addition, the petitioner filing a petition under this section shall comply with the requirements of § 36-1-117(e).

(e) Service of process of the petition shall be made as provided in § 36-1-117.

(f) Before terminating the rights of any parent or guardian who is incarcerated or who was incarcerated at the time of an action or proceeding is initiated, it must be affirmatively shown to the court that such incarcerated parent or guardian received actual notice of the following:

(1) The time and place of the hearing to terminate parental rights;

(2) That the hearing will determine whether the rights of the incarcerated parent or guardian should be terminated;

(3) That the incarcerated parent or guardian has the right to participate in the hearing and contest the allegation that the rights of the incarcerated parent or guardian should be terminated, and, at the discretion of the court, such participation may be achieved through personal appearance, teleconference, telecommunication or other means deemed by the court to be appropriate under the circumstances;

(4) That if the incarcerated parent or guardian wishes to participate in the hearing and contest the allegation, such parent or guardian:

(A) If indigent, will be provided with a court-appointed attorney to assist the parent or guardian in contesting the allegation; and

(B) Shall have the right to perpetuate such person's testimony or that of any witness by means of depositions or interrogatories as provided by the Tennessee Rules of Civil Procedure; and

(5) If, by means of a signed waiver, the court determines that the incarcerated parent or guardian has voluntarily waived the right to participate in the hearing and contest the allegation, or if such parent or guardian takes no action after receiving notice of such rights, the court may proceed with such action without the parent's or guardian's participation.

(g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and nonexclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground:

(1) Abandonment by the parent or guardian, as defined in § 36-1-102, has occurred;

(2) There has been substantial noncompliance by the parent or guardian with the statement of responsibilities in a permanency plan pursuant to title 37, chapter 2, part 4;

(3)(A) The child has been removed from the home or the physical or legal custody of a parent or guardian for a period of six (6) months by a court order entered at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and:

(i) The conditions that led to the child's removal still persist, preventing the child's safe return to the care of the parent or guardian, or other conditions exist that, in all reasonable probability, would cause the child to be subjected to further abuse or neglect, preventing the child's safe return to the care of the parent or guardian;

(ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned to the parent or guardian in the near future; and

(iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home;

(B) The six (6) months must accrue on or before the first date the termination of parental rights petition is set to be heard;

(4) The parent or guardian has been found to have committed severe child abuse, as defined in § 37-1-102, under any prior order of a court or is found by the court hearing the petition to terminate parental rights or the petition for adoption to have committed severe child abuse against any child;

(5) The parent or guardian has been sentenced to more than two (2) years' imprisonment for conduct against a child that has been found under any prior order of a court or that is found by the court hearing the petition to be severe child abuse, as defined in § 37-1-102. Unless otherwise stated, for purposes of this subdivision (g)(5), "sentenced" shall not be construed to mean that the parent or guardian must have actually served more than two (2) years in confinement, but shall only be construed to mean that the court had imposed a sentence of two (2) or more years upon the parent or guardian;

(6) The parent has been confined in a correctional or detention facility of any type, by order of the court as a result of a criminal act, under a sentence of ten (10) or more years, and the child is under eight (8) years of age at the

time the sentence is entered by the court;

(7) The parent has been:

(A) Convicted of first degree or second degree murder of the child's other parent or legal guardian; or

(B) Found civilly liable for the intentional and wrongful death of the child's other parent or legal guardian;

(8)(A) The chancery and circuit courts shall have jurisdiction in an adoption proceeding, and the chancery, circuit, and juvenile courts shall have jurisdiction in a separate, independent proceeding conducted prior to an adoption proceeding to determine if the parent or guardian is mentally incompetent to provide for the further care and supervision of the child, and to terminate that parent's or guardian's rights to the child;

(B) The court may terminate the parental or guardianship rights of that person if it determines on the basis of clear and convincing evidence that:

(i) The parent or guardian of the child is incompetent to adequately provide for the further care and supervision of the child because the parent's or guardian's mental condition is presently so impaired and is so likely to remain so that it is unlikely that the parent or guardian will be able to assume or resume the care of and responsibility for the child in the near future; and

(ii) That termination of parental or guardian rights is in the best interest of the child;

(C) In the circumstances described under subdivisions (8)(A) and (B), no willfulness in the failure of the parent or guardian to establish the parent's or guardian's ability to care for the child need be shown to establish that the parental or guardianship rights should be terminated;

(9)(A) The parental rights of any person who, at the time of the filing of a petition to terminate the parental rights of such person, or if no such petition is filed, at the time of the filing of a petition to adopt a child, is the putative father of the child may also be terminated based upon any one (1) or more of the following additional grounds:

(i) [Deleted by 2019 amendment.]

(ii) The person has failed, without good cause or excuse, to make reasonable and consistent payments for the support of the child in accordance with the child support guidelines promulgated by the department pursuant to § 36-5-101;

(iii) The person has failed to seek reasonable visitation with the child, and if visitation has been granted, has failed to visit altogether, or has engaged in only token visitation, as defined in § 36-1-102;

(iv) The person has failed to manifest an ability and willingness to assume legal and physical custody of the child;

(v) Placing custody of the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child; or

(vi) The person has failed to file a petition to establish paternity of the child within thirty (30) days after notice of alleged paternity, or as required in § 36-2-318(j), or after making a claim of paternity pursuant to § 36-1-117(c)(3);

(B)(i) For purposes of this subdivision (g)(9), "notice" means the written statement to a person who is believed to be the biological father or possible biological father of the child. The notice may be made or given

by the mother, the department, a licensed child-placing agency, the prospective adoptive parents, a physical custodian of the child, or the legal counsel of any of these people or entities; provided, that actual notice of alleged paternity may be proven to have been given to a person by any means and by any person or entity. The notice may be made or given at any time after the child is conceived and, if not sooner, may include actual notice of a petition to terminate the putative father's parental rights with respect to the child;

(ii) "Notice" also means the oral statement to an alleged biological father from a biological mother that the alleged biological father is believed to be the biological father, or possible biological father, of the biological mother's child;

(10)(A) The parent has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime the child was conceived. A certified copy of the conviction suffices to prove this ground;

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(10)(A), the child's other parent shall have standing to file a petition to terminate the parental rights of the convicted parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in this subdivision (g)(10) or subdivision (g)(11) or (g)(15);

(11)(A)(i) The parent has been found to have committed severe child sexual abuse under any prior order of a criminal court;

(ii) For the purposes of this section, "severe child sexual abuse" means the parent is convicted of any of the following offenses towards a child:

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

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

(c) Aggravated sexual exploitation of a minor, pursuant to § 39-17-1004;

(d) Especially aggravated sexual exploitation of a minor, pursuant to § 39-17-1005;

(e) Incest, pursuant to § 39-15-302;

(f) Rape, pursuant to § 39-13-503; or

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

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(11)(A)(ii), the child's other parent shall have standing to file a petition to terminate the parental rights of the abusive parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in subdivision (g)(10), this subdivision (g)(11), or subdivision (g)(15);

(12) The parent or guardian has been convicted of trafficking for commercial sex act under § 39-13-309;

(13) The parent or guardian has been convicted on or after July 1, 2015, of sex trafficking of children or by force, fraud, or coercion under 18 U.S.C. § 1591, or a sex trafficking of children offense under the laws of another state that is substantially similar to § 39-13-309;

(14) A parent or guardian has failed to manifest, by act or omission, an ability and willingness to personally assume legal and physical custody or financial responsibility of the child, and placing the child in the person's legal and physical custody would pose a risk of substantial harm to the

physical or psychological welfare of the child; and

(15)(A) The parent or legal guardian has been convicted of attempted first degree murder or attempted second degree murder of the child's other parent or legal guardian;

(B) When one (1) of the child's parents or legal guardians has been convicted of attempted first degree murder or attempted second degree murder of the child's other parent or legal guardian, the child's non-offending parent or legal guardian shall have standing to file a petition to terminate the parental or guardianship rights of the convicted parent or legal guardian. Nothing in this section shall give a parent or legal guardian standing to file a petition to terminate parental or guardianship rights based on grounds other than those listed in subdivision (g)(10) or (g)(11) or this subdivision (g)(15).

(h)(1) The department shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, under the following circumstances:

(A) In the case of a child who has been in foster care under the responsibility of the department for fifteen (15) of the most recent twenty-two (22) months; or

(B) If a court of competent jurisdiction has determined a child to be an abandoned infant as defined at § 36-1-102; or

(C) If a court of competent jurisdiction has made a determination in a criminal or civil proceeding that the parent has committed murder of a child, committed voluntary manslaughter of a child, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter of a child, or committed a felony assault that has resulted in serious bodily injury or severe child abuse as defined at § 37-1-102 to a child. For the purposes of this subsection (h), such a determination shall be made by a jury or trial court judge designated by § 16-2-502 through an explicit finding, or by such equivalent courts of other states or of the United States; or

(D) If a juvenile court has made a finding of severe child abuse as defined at § 37-1-102.

(2) At the option of the department, the department may determine that a petition to terminate the parental rights of the child's parents shall not be filed (or, if such a petition has been filed by another party, shall not be required to seek to be joined as a party to the petition), if one of the following exists:

(A) The child is being cared for by a relative;

(B) The department has documented in the permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(C) The department has not made reasonable efforts under § 37-1-166 to provide to the family of the child, consistent with the time period in the department permanency plan, such services as the department deems necessary for the safe return of the child to the child's home.

(i) In determining whether termination of parental or guardianship rights is in the best interest of the child pursuant to this part, the court shall consider, but is not limited to, the following:

(1) Whether the parent or guardian has made such an adjustment of circumstance, conduct, or conditions as to make it safe and in the child's best interest to be in the home of the parent or guardian;

(2) Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible;

(3) Whether the parent or guardian has maintained regular visitation or other contact with the child;

(4) Whether a meaningful relationship has otherwise been established between the parent or guardian and the child;

(5) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological and medical condition;

(6) Whether the parent or guardian, or other person residing with the parent or guardian, has shown brutality, physical, sexual, emotional or psychological abuse, or neglect toward the child, or another child or adult in the family or household;

(7) Whether the physical environment of the parent's or guardian's home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol, controlled substances or controlled substance analogues as may render the parent or guardian consistently unable to care for the child in a safe and stable manner;

(8) Whether the parent's or guardian's mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing safe and stable care and supervision for the child; or

(9) Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department pursuant to § 36-5-101.

(j) In the hearing on the petition, the circuit, chancery, or juvenile court shall admit evidence, pursuant to the Tennessee Rules of Evidence, and shall recognize the exemptions to privileges as provided pursuant to §§ 37-1-411 and 37-1-614.

(k) The court shall ensure that the hearing on the petition takes place within six (6) months of the date that the petition is filed, unless the court determines an extension is in the best interests of the child. The court shall enter an order that makes specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing. If such a case has not been completed within six (6) months from the date the petition was served, the petitioner or respondent shall have grounds to request that the court of appeals grant an order expediting the case at the trial level.

(*l*)(1) An order terminating parental rights shall have the effect of severing forever all legal rights and obligations of the parent or guardian of the child against whom the order of termination is entered and of the child who is the subject of the petition to that parent or guardian. The parent or guardian shall have no further right to notice of proceedings for the adoption of that child by other persons and shall have no right to object to the child's adoption or thereafter to have any relationship, legal or otherwise, with the child. It shall terminate the responsibilities of that parent or guardian under this section for future child support or other future financial responsibilities even if the child is not ultimately adopted; provided, that the entry of an order terminating the parental rights shall not eliminate the responsibility of such

parent or guardian for past child support arrearages or other financial obligations incurred for the care of such child prior to the entry of the order terminating parental rights.

(2) Notwithstanding subdivision (*l*)(1), a child who is the subject of the order for termination shall be entitled to inherit from a parent whose rights are terminated until the final order of adoption is entered.

(m) Upon termination of parental or guardian rights, the court may award guardianship or partial guardianship of the child to a licensed child-placing agency or the department. Such guardianship shall include the right to place the child for adoption and the right to consent to the child's adoption. Upon termination of parental or guardian rights, the court may award guardianship or partial guardianship to any prospective adoptive parent or parents with the right to adopt the child, or to any permanent guardian who has been appointed pursuant to title 37, chapter 1, part 8. In any of these cases, such guardianship is subject to the remaining rights, if any, of any other parent or guardian of the child. Before guardianship or partial guardianship can be awarded to a permanent guardian, the court shall find that the department or licensed child-placing agency currently having custody of the child has made reasonable efforts to place the child for adoption and that permanent guardianship is in the best interest of the child.

(n) An order of guardianship or partial guardianship entered by the court pursuant to this section shall supersede prior orders of custody or guardianship of that court and of other courts, except those prior orders of guardianship or partial guardianship of other courts entered as the result of validly executed surrenders or revocations pursuant to § 36-1-111 or § 36-1-112, or except as provided pursuant to § 36-1-111(r)(4)(D) and (E), or except an order of guardianship or partial guardianship of a court entered pursuant to § 36-1-116; provided, that orders terminating parental rights entered by a court under this section prior to the filing of an adoption petition shall be effective to terminate parental rights for all purposes.

(o) If the court terminates parental or guardianship rights, under this part or title 37 or a consent is given pursuant to § 36-1-117(f) or (g), or if there have been surrenders of parental or guardianship rights of all other necessary parties, then no further surrender or consent of that parent or guardian shall be necessary to authorize an adoption; provided, that the adoption court may review and confirm the validity of any denials of parentage made by persons under any statutory provisions from outside the state of Tennessee.

(p) A copy of the order or orders obtained by the prospective adoptive parents terminating parental or guardianship rights under this section shall be filed with the petition for adoption.

(q) After the entry of the order terminating parental rights, no party to the proceeding, nor anyone claiming under such party, may later question the validity of the termination proceeding by reason of any defect or irregularity therein, jurisdictional or otherwise, but shall be fully bound thereby, except based upon a timely appeal of the termination order as may be allowed by law; and in no event, for any reason, shall a termination of parental rights be overturned by any court or collaterally attacked by any person or entity after one (1) year from the date of the entry of the final order of termination. This provision is intended as a statute of repose.

36-1-117. Parties to proceedings — Termination of rights of putative father — Consent of parent or guardian — Service of process.

(a) Unless the legal parent, guardian, or any putative father of the child has surrendered parental or guardianship rights to the child, executed a parental consent, or waived the person's rights pursuant to § 36-1-111(w) or (x), or unless the person's rights have been terminated by court order, such person must be made a party to the adoption proceeding or to a separate proceeding seeking termination of those rights and those rights must be terminated prior to entry of an order of adoption.

(b)(1) If a petition has been filed to establish paternity of the child who is the subject of the adoption proceeding, the adoption court shall have exclusive jurisdiction to hear and decide any paternity petition filed in the adoption proceeding or that has been transferred to it pursuant to § 36-2-307.

(2) The paternity petition shall be heard and concluded prior to any action by the adoption court to determine whether to grant the petition for adoption.

(3)(A) The petition shall be granted if it is shown by a preponderance of the evidence that the person alleged to be the father of the child is the father of the child; provided, that the entry of such an order shall not prevent the filing and consideration of a petition pursuant to § 36-1-113.

(B) If the petition to establish paternity is granted, then the parental rights of the legal father must be terminated as provided by § 36-1-113 or as otherwise provided by law, or the legal father must execute a surrender under § 36-1-111, file a parental consent, or the legal father must co-sign the petition for adoption pursuant to subsection (f) before the court may be authorized to order an adoption of the child.

(4) If grounds for termination of parental rights do not exist, then the child's legal father shall be granted custody of the child, unless the court determines, upon clear and convincing evidence, that the legal father is unable currently to provide proper custodial care for the child, in which case the court shall make such orders as may be necessary for the child's care and supervision pursuant to § 37-1-140; or unless the child's mother's rights have not been previously terminated, in which case the court shall make a determination of the custodial status of the child between the legal father and the mother, and the court may make such other orders as are necessary to provide for the child's care and supervision. If the court determines that neither parent is suitable to provide for the care of the child, it shall make such other orders as it may determine are necessary for the child's care and supervision.

(5) If the petition to establish paternity is not granted by the court after a hearing and determination based upon subdivision (3), then the court may enter an order to that effect specifying the basis for the determination, and may proceed with the adoption proceeding without further need to terminate the rights of that putative father.

(6) The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), compiled in chapter 6, part 2 of this title, shall govern jurisdiction of the adoption court in this state if a paternity proceeding has been filed by the putative father in another state, territory, or foreign country.

(c) The parental rights of the putative father of a child who has not filed a

petition to establish paternity of the child or who has not established paternity of the child who is the subject of an adoption proceeding and who meets any of the following criteria shall be terminated by surrender, parental consent, termination of parental rights pursuant to § 36-1-113, or by waiver of interest, before the court may enter an order of adoption concerning that child:

(1) The biological father of a child has filed with the putative father registry, pursuant to § 36-2-318, as described in § 36-1-113(d)(3)(A), a statement of an intent to claim paternity of the child at any time prior to or within thirty (30) days after the child's birth and has notified the registry of all address changes;

(2) [Deleted by 2018 amendment.]

(3) The biological father has claimed to the child's biological mother, or to the petitioners or their attorney, or to the department, a licensed child-placing agency, or a licensed clinical social worker who or that is involved in the care, placement, supervision, or study of the child that the biological father believes that the biological father is the father of the child; provided, that if the biological father has previously notified the department of the biological father's claim to paternity of the child pursuant to the putative father registry, § 36-2-318(e)(3), the biological father shall be subject to all the requirements for waiver of notice provisions of § 36-2-318(f)(2) and to all requirements for filing a paternity petition;

(4) The biological father is recorded on the child's birth certificate as the father of the child;

(5) The biological father is openly living with the child at the time the adoption proceeding is commenced and is holding himself out as the father of the child; provided, that if custody of the child has been removed from the biological mother by court order, notice shall be given to any man who was openly living with the child at time of the initiation of the custody or guardianship proceeding that resulted in the removal of the custody or guardianship of the child from the biological mother or biological father, if the man held himself out to be the father of the child at the time of the removal; or

(6) The biological father has entered a permanency plan under title 37, chapter 2, part 4, or under similar provisions of any other state or territory in which the biological father acknowledges paternity of the child.

(d)(1) Other biological or legal relatives of the child or the adult are not necessary parties to the proceeding and shall not be entitled to notice of the adoption proceedings unless they are the guardian or custodian of the child or the conservator of the adult at the time the petition is filed.

(2) The legal custodian of the child or any person or entity appointed guardian of the person or property of the child pursuant to an order that does not specifically include the right to adopt or consent to the adoption of the child and that was not entered as a result of a surrender, parental consent, termination of parental rights, or finding that the child is without any living person entitled to notice pursuant to subsection (a) may only receive notice of the proceeding and may only present evidence as to the child's best interests.

(e) Any public or private agency that may have custody or complete or partial guardianship of the child and that has not given consent as provided under this part shall be made a defendant and given notice of the filing of the adoption or termination of parental or guardian rights petition filed under this part or under title 37, and shall be permitted to assert its rights to custody or

guardianship of the child.

(f) When the child is related to one (1) of the petitioners or is the stepchild of the petitioner, and the legal or biological parent or parents or guardian or guardians of the child signs the adoption petition as a co-petitioner for the specific purpose, as stated in the petition, of giving consent to the adoption, no further surrender, parental consent, or termination of parental rights shall be required as to that parent or guardian, as the act of joining in the adoption petition shall be deemed a complete surrender, notwithstanding subsection (g), and no further notice or service of process need be made to that person; provided, that where the stepparent of a stepchild seeks to adopt a stepchild, the co-signing of the petition by the child's parent who is the spouse of the petitioner shall not affect the existing parent/child legal relationship between that parent and the parent's child who is the subject of the adoption petition by the stepparent of the child.

(g)(1) A parent may sign a petition for adoption as provided by § 36-1-102 for the purpose of giving parental consent to the adoption of the parent's child by unrelated persons. The petition must state that the parent understands that the entry of an order confirming the parental consent, without revoking the parental consent prior to the entry of such order, will terminate that parent's parental rights to the child forever and that the parent will have no legal rights to custody or control of the child in the future.

(2) It is specifically and expressly declared that the act of signing the adoption petition shall not terminate the parental rights of such parent until the court where the adoption petition is filed has entered an order confirming the parental consent and until the court shall have required such parent to answer, under oath, each of the questions required of parents pursuant to § 36-1-111(b)(4).

(3) The parent signing the petition for the purpose of giving parental consent shall be provided ten (10) calendar days' written notice by the court of the appearance date for the required response to the court pursuant to § 36-1-111 before entry of the order confirming the parental consent is entered by the court. Unless the parent is disabled or the parent's appearance is impracticable as determined by the court, that parent must personally attend the hearing before the court in chambers. If the parent is disabled or the parent's appearance is impracticable as determined by the court, the answers shall be taken under oath at the parent's location by the court or by any person appointed by an order of the court to do so. If the parent executing the parental consent cannot be found or does not appear at the time of such hearing, the court may terminate that parent's rights upon any grounds available pursuant to § 36-1-113.

(4) Following the satisfactory completion of such questions, which shall be recorded on the forms required pursuant to § 36-1-111, the court shall enter an order that confirms the parental consent, and the court shall then, and only then, be authorized to enter an order terminating such parent's rights to the child who is the subject of the adoption petition; provided, that a parental consent may be revoked at any time prior to the entry of an order of confirmation of the parental consent by the court by executing a revocation form as provided in § 36-1-112, and such revocation shall negate and void the parental consent executed pursuant to this subsection (g).

(5) The death of the consenting parent or termination of parental rights of such parent by a validly executed surrender or by court action prior to the entry of the adoption order will make any requirements for the parental

consent contained herein unnecessary.

(6) Upon entry of the order of confirmation, the clerk shall send certified copies of the order to the adoptions unit in the state office of the department in Nashville.

(h) The department, through any authorized person, or the executive head of such licensed child-placing agency may give consent to the adoption of the child by the petitioners for whom it holds complete or partial guardianship.

(i)(1) When the child who is the subject of the adoption is fourteen (14) years of age or older at any time before the granting of the petition, the adoption court must receive the sworn, written consent of such child to the adoption, which shall be filed with the record, and the consent of such minor shall be recited in the order of adoption. The court shall receive the consent and testimony from the child in chambers with only the child and a guardian ad litem if required and appointed by the court for the child present.

(2) If the child is mentally disabled, the court shall appoint a guardian ad litem to give or withhold consent for the child to the adoption and the court shall follow the procedure of subdivisions (j)(2)(B) and (C).

(j)(1) When the person sought to be adopted is eighteen (18) years of age or older, only the sworn, written consent of the person sought to be adopted shall be required and no order of reference or any home studies need be issued.

(2)(A) If the adult person to be adopted has been adjudicated incompetent, then the written consent of the adult person's conservator shall be required.

(B) If the person is without a conservator and the court has reason to believe that the person is incompetent to give consent, then the court shall appoint a guardian ad litem who shall investigate the person's circumstances and that guardian ad litem shall give or withhold consent.

(C) The guardian ad litem shall file a written report stating the basis for the decision and the court shall afford a hearing to all parties to present evidence as to the best interests of the person, and if the court determines upon clear and convincing evidence that the decision to withhold consent by the guardian ad litem is arbitrary and is not in the best interests of the incompetent person, it may proceed to make any other orders it deems necessary for the person's welfare, including granting the adoption petition.

(3) In all other situations under this subsection (j) for adult persons who are the subject of an adoption petition, no order of reference, social investigation, report to the court by a licensed child-placing agency or licensed clinical social worker or the department, or the waiting period under § 36-1-119 shall be required.

(k) When the child has been surrendered or parental rights have been relinquished to an agency operating under the laws of another state, territory, or foreign country, or such agency has received guardianship or the right to place a child for adoption pursuant to the laws of its jurisdiction, the surrender or relinquishment, or any order terminating parental rights, and the written consent of the agency pursuant to the laws of its jurisdiction or pursuant to its procedures shall be filed with the adoption petition and shall be sufficient for the purposes of providing the necessary consent required by this part.

(*l*) If a person has surrendered that parent's parental rights or guardianship rights, if a person has filed a parental consent and the consent has been

confirmed as provided herein, if a person has executed a waiver of interest pursuant to this part, if a person or agency has consented to the adoption of the child who is the subject of the adoption proceeding, or if a person's parental or guardianship rights to the child have been properly terminated, no notice of the adoption proceeding or service of process shall be made to that person or agency.

(m)(1) Service of process for adoption proceedings and termination proceedings in chancery and circuit courts pursuant to this part shall be made pursuant to the Tennessee Rules of Civil Procedure and the statutes governing substituted service.

(2) Service of process for proceedings to terminate parental rights in juvenile court shall be pursuant to the Tennessee Rules of Civil Procedure, unless a finding is made pursuant to Tennessee Rules of Juvenile Procedure Rule 1 that the interests of justice require otherwise, the statutory requirements of title 37, chapter 1, part 1, where not otherwise in conflict with this part, and the statutes governing substituted service.

(3) Any motion for an order for publication in these proceedings shall be accompanied by an affidavit of the petitioners or their legal counsel attesting, in detail, to all efforts to determine the identity and whereabouts of the parties against whom substituted service is sought.

(4) Service of process for juvenile court proceedings may be completed by any individual authorized to serve process under the Tennessee Rules of Civil Procedure or the Tennessee Rules of Juvenile Procedure, including, but not limited to, a sheriff, constable, or private process server.

(n) The court may enter a default judgment against any party to the adoption or termination proceeding upon a finding that service of process has been validly made against that party in accordance with the Tennessee Rules of Civil or Juvenile Procedure and the statutes concerning substituted service; however, in termination proceedings, proof must be presented as to legal grounds and best interest pursuant to § 36-1-113.

(o) The response or answer to a petition for termination of parental rights shall be signed by the respondent personally, sworn to and verified, and filed with the clerk of the court.

36-1-142. Voluntary delivery of infant to facility, revocation of voluntary delivery, and termination of parental rights.

(a) Notwithstanding any other law to the contrary and without complying with the surrender provisions of this part, any facility, as defined by § 68-11-255, shall receive possession of an infant aged two (2) weeks or younger upon the voluntary delivery of the infant by the infant's mother, pursuant to § 68-11-255.

(b) The facility, any facility employee or any member of the professional medical community at such facility shall notify the department of children's services as soon as reasonably possible and no later than twenty-four (24) hours after taking possession of an infant under this section. The department or the department's authorized designee shall immediately assume the care, custody and control of such infant and shall petition the appropriate court for legal custody of such child.

(c) Voluntary delivery of an infant pursuant to § 68-11-255 and failure of the mother voluntarily delivering such child to visit or seek contact with such

infant for a period of thirty (30) days after the date of delivery, and failure to seek contact with the infant through the department or to revoke the voluntary delivery within thirty (30) days after notice was completed pursuant to this section, which shall cumulatively be no less than ninety (90) days from the date such child was voluntarily delivered to such facility, shall be a basis for termination of parental rights pursuant to this part.

(d)(1) A mother who voluntarily delivers an infant pursuant to § 68-11-255 may revoke such voluntary delivery by applying to a court that is qualified to receive a surrender pursuant to § 36-1-111 no later than thirty (30) days after notice was completed under subsection (e).

(2) After such thirty (30) days, no voluntary delivery pursuant to § 68-11-255 shall be set aside except upon clear and convincing evidence of duress, fraud or intentional misrepresentation.

(e)(1) Within ten (10) days of receipt of an infant under this section, the department shall give notice once a week for four (4) consecutive weeks in a newspaper or other publication of general circulation in the county in which such voluntary delivery occurred. The department shall also give such notice in any other county for which there are any facts known to the department that reasonably indicate the infant's mother or father may be so located. The notice shall include information to provide an opportunity for the putative father to claim paternity and for the mother to revoke voluntary delivery. Such notice shall describe the infant, identify where and when voluntary delivery occurred, specify how and who to contact for follow up and provide any other relevant information.

(2) The notice shall specify that failure to seek contact with the infant through the department or to revoke the voluntary delivery within thirty (30) days of the date of the last publication of notice shall constitute abandonment of the infant and of the mother's interest.

(3) The notice shall specify that any father of such infant who fails to claim paternity by contacting the department or registering with the putative father registry pursuant to § 36-2-318 within thirty (30) days of the last publication shall be barred from thereafter bringing or maintaining any action to establish paternity of the infant. It shall also specify that such failure shall constitute abandonment of any right to notice of, or to a hearing in, any judicial proceeding for the adoption of such infant and that consent of such putative father shall not be required for adoption of the infant.

(f) The department shall designate one (1) or more persons to serve as a contact in the event the mother requires additional information, including but not limited to the legal effect of voluntary delivery of the infant, revocation of voluntary delivery, availability of relevant social services and follow-up inquiries once the mother has left the facility. The department shall provide all facilities designated to receive infants under this section with the name, phone number and other necessary information regarding such contact person.

36-1-145. Written contract for post-adoption contact between certain parties — Requirements — Enforcement — Modification — Termination.

(a) A prospective adoptive parent or an adoptive parent and a biological parent; or a prospective adoptive parent or an adoptive parent, a biological parent, and a child who is fourteen (14) years of age or older who is being

adopted or who has been adopted, may voluntarily enter into a written contract for post-adoption contact that permits continued contact between legal relatives and the child. Unless expressly designated as a moral agreement only and that the agreement is not intended to be legally enforceable, a written agreement executed in accordance with this section is a contract for post-adoption contact, and is enforceable pursuant to this section. A subject child fourteen (14) years of age or older is a necessary party to a contract for post-adoption contact and is deemed to have the capacity to enter into a contract for purposes of this section.

(b) A contract for post-adoption contact may provide for privileges regarding an adopted child, including, but not limited to, visitation with the child, contact with the child, sharing of information about the child, or sharing of information about biological parents or adoptive parents.

(c) A contract for post-adoption contact must be in writing and signed by all parties to the agreement and is enforceable pursuant to this section. A verbal agreement or written statement not signed by all parties is not enforceable under this section. A provision of a contract for post-adoption contact permitting contact between an adopted child and a person legally restrained from contact with the child, or with children generally, is not enforceable under this section. A contract for post-adoption contact becomes enforceable under this section upon finalization of the anticipated adoption. Unless the parties state otherwise in the contract, a contract for post-adoption contact may be enforceable until the child being adopted reaches eighteen (18) years of age.

(d) As used in this section, "parties" means the prospective adoptive parent or adoptive parent, the biological parent, and the child if the child is fourteen (14) years of age or older at the time of the contract, but excludes any third-party beneficiary to the contract.

(e) A contract for post-adoption contact must contain the following warnings in at least fourteen (14) point boldface type:

(1) After the entry of an order of adoption, an adoption cannot be set aside due to the failure of an adoptive parent, a biological parent, or the child to follow the terms of this contract or a later change to this contract; and

(2) A disagreement between the parties or litigation brought to enforce or modify this contract shall not affect the validity of the adoption and cannot serve as a basis for orders affecting the custody of the child.

(f) Except as otherwise provided in subdivision (j)(5), the court issuing the order of adoption has continuing jurisdiction over enforcement or modification of a contract for post-adoption contact.

(g) A party to a contract for post-adoption contact may file the original contract with the court having jurisdiction over the adoption if the contract provides for court enforcement or if the contract is silent as to the issue of enforcement. A contract filed with the adoption court must be filed in the adoption action, unless an action to enforce the contract is filed. An action to enforce the contract is a new and independent action.

(h) A contract for post-adoption contact may be modified or terminated by voluntary execution of a modification or termination agreement by all living parties to the original contract. A modified contract for post-adoption contact may be filed with the court if the contract provides for court enforcement or the contract is silent as to enforcement.

(i) A court shall not set aside an order of adoption, rescind a waiver of interest or surrender, or modify an order terminating parental rights due to the failure of a party to comply with any or all the original terms of, or

subsequent modifications to, a contract for post-adoption contact.

(j) A biological parent shall not petition the court for modification of a contract for post-adoption contact. Only the adoptive parent or the child may petition the court to modify a contract for post-adoption contact. For purposes of this section, a petition to terminate a post-adoption contract will be considered a petition for modification of the contract. Any party may petition the court for enforcement of a contract for post-adoption contact. Enforcement or modification of an enforceable contract for post-adoption contact must be initiated by an appropriate party as follows:

(1) By delivering a letter, by certified mail or personal service, to all other parties to the contract stating with reasonable particularity the enforcement or modification sought and the reason for such request;

(2) The party against whom enforcement or modification is sought has thirty (30) days after receipt of the letter to provide a response;

(3) If no response is received within thirty (30) days, or the response is not satisfactory to the party initiating enforcement or modification, the adoptive parent must seek and obtain, at the parent's own expense, a written opinion from a licensed psychological professional holding a certification equal to or greater than that of clinical social worker as to the child's best interests on the issue or issues raised and a recommendation as to whether any or all of the requested enforcement or modification should occur, including any other recommendations based on the child's best interests regarding the child's relationship to the parties. The opinion of the psychological professional must be completed and provided to the other parties by the adoptive parents within ninety (90) days of the delivery of the initial notice;

(4) If the professional recommendation does not result in a resolution of the issues, or if the adoptive parent fails to obtain the opinion of a psychological professional within the time provided, the parties shall attend mediation within thirty (30) days of the release of the written recommendation or within one hundred twenty (120) days of the delivery of the initial notice. The parties may agree on a mediator, or a party otherwise authorized to do so under this section may file a petition for modification or enforcement of the contract before the court that issued the order of adoption and request appointment of a mediator. The adoptive parent is responsible for the mediation costs; and

(5) If the issues raised are not resolved after two (2) mediation sessions, the mediation reaches an impasse as determined by the mediator, or the opposing party refuses to participate in mediation, a party, if permitted under this section, may petition the court that issued the order of adoption for relief. If the court that issued the order of adoption is not a Tennessee court and a biological parent residing in Tennessee is seeking enforcement of a contract for post-adoption contact, then the biological parent may petition for enforcement of the contract in a court with adoption jurisdiction in the county where the biological parent resides. If at that time no party resides in this state, the petition may be filed in a court with adoption jurisdiction where the child resides. Tennessee law applies to enforcement of contracts made pursuant to this section regardless of where the action is filed. The burden of proof is on the party seeking enforcement or modification. The standard of proof is a preponderance of the evidence. The best interests of the child must be the court's primary test for determining whether the contract should be modified or enforced, but the good faith of all parties, any

change in circumstances since the contract was executed, and each party's compliance with the contract to date, are also relevant considerations. The court may consider such other evidence as is appropriate to reach an equitable resolution.

(k) Any further requests for enforcement or modification based on the same or similar allegations made by the same party must be filed at the expense of the moving party directly in the court that granted the order for adoption. A party determined by the court to be noncompliant must overcome a presumption of bad faith.

(*l*) Court costs and attorney fees incurred by any party to the contract and the fees of any attorney for the child incurred under subsection (j)(5) may be taxed to all or any parties. The good faith and means of each party are to be primary considerations for apportionment of fees and expenses.

(m) Should an adoptive parent lose legal custody of the child, the process in this section to enforce a contract for post-adoption contact must be suspended until such time as custody is restored. However, a subsequent custodian may choose to comply with the contract as a moral agreement.

(n)(1) A guardian ad litem appointed for the subject child in a contested termination of parental rights is not a necessary party to a contract for post-adoption contact. Parties to a proposed agreement shall offer the guardian ad litem an opportunity to participate in the negotiation of the agreement and to review the final agreement before it is executed, and shall provide to the guardian ad litem a copy of the contract for post-adoption contact after it is executed.

(2) If the contract for post-adoption contact is part of an agreed resolution to a contested termination of parental or guardianship rights action, then the child's guardian ad litem shall advocate for the best interest of the child before the execution of the agreement. The guardian ad litem may request a hearing before the court, prior to resolution of the termination of parental or guardianship rights action, to offer evidence regarding whether the contract for post-adoption contact serves the child's best interest. The court may consider the terms of a contract for post-adoption contact in determining whether termination of parental or guardianship rights is in the best interest of the child.

(3) A contract for post-adoption contact may not expand or extend the duties of the guardian ad litem after the final resolution of the case in which the guardian ad litem is appointed. If a court determines that a child requires a guardian ad litem in an action to enforce or modify a contract for post-adoption contact, the court may make a new guardian ad litem appointment.

36-1-147. Private licensed child-placing agencies.

(a) To the extent allowed by federal law, no private licensed child-placing agency shall be required to perform, assist, counsel, recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the proposed placement would violate the agency's written religious or moral convictions or policies.

(b) To the extent allowed by federal law, the department of children's services shall not deny an application for an initial license or renewal of a license or revoke the license of a private child-placing agency because of the

agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

(c) To the extent allowed by federal law, a state or local government entity shall not deny to a private licensed child-placing agency any grant, contract, or participation in a government program because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

(d) Refusal of a private licensed child-placing agency to perform, assist, counsel, recommend, consent to, refer, or participate in a placement that violates the agency's written religious or moral convictions or policies shall not form the basis of a civil action for either damages or injunctive relief.

36-4-103. Irreconcilable differences — Procedure.

(a)(1) In all divorces sought because of irreconcilable differences between the parties, if the defendant is a nonresident, personal service may be effectuated by service upon the secretary of state pursuant to § 20-2-215.

(2) In lieu of service of process, the defendant may enter into a written notarized marital dissolution agreement with plaintiff that makes specific reference to a pending divorce by a court and docket number, or states that the defendant is aware that one will be filed in this state and that the defendant waives further service and waives filing an answer to the complaint. Such waiver of service shall be valid for a period of one hundred eighty (180) days from the date the last party signs the agreement. The agreement may include the obligation and payment of alimony, in solido or in futuro, to either of the parties, any other law notwithstanding. The signing of such an agreement shall be in lieu of service of process for the period such waiver is valid and shall constitute a general appearance before the court and answer that shall give the court personal jurisdiction over the defendant, and constitute a default judgment for the purpose of granting a divorce on the grounds of irreconcilable differences.

(3) No divorce heretofore granted shall be invalid because the agreement was signed and notarized or acknowledged prior to filing under prior law before the action was filed.

(b) No divorce shall be granted on the ground of irreconcilable differences unless the court affirmatively finds in its decree that the parties have made adequate and sufficient provision by written agreement for the custody and maintenance of any children of that marriage and for the equitable settlement of any property rights between the parties. If the court does not affirmatively find that the agreement is sufficient or equitable, the cause shall be continued by the court to allow further disposition by the petitioner. If both parties are present at the hearing, they may, at that time, ratify any amendments the court may have to the agreement. The amended agreement shall then become a part of the decree. The agreement shall be incorporated in the decree or incorporated by reference, and such decree may be modified as other decrees for divorce. Approval of the agreement by the court satisfies the requirements of Rule 52.01 of the Tennessee Rules of Civil Procedure, and the court is not required to make written findings of fact and conclusions of law as to whether the parties' agreed amendment makes adequate and sufficient provisions for the custody and maintenance of any children of that marriage or whether the

agreement is in the best interest of the parties' children.

(c)(1) Bills for divorce on the ground of irreconcilable differences must have been on file for sixty (60) days before being heard if the parties have no unmarried child under eighteen (18) years of age, and must have been on file at least ninety (90) days before being heard if the parties have an unmarried child under eighteen (18) years of age. The sixty-day or ninety-day period bills for divorce must be on file shall commence on the date the original bill was filed and not on the date the bill was amended to include the ground of irreconcilable differences.

(2) A divorce decree or order issued prior to March 22, 1996, in which the hearing for such divorce occurred before the specified time periods required by this subsection (c), shall remain valid and the parties shall remain divorced. Likewise, all other issues resolved in the divorce decree, order or agreement, such as distribution of marital property, alimony, child support and custody, shall remain valid and in full force and effect.

(d)(1) A bill of complaint for divorce where the respondent has been personally served or acknowledged as set out in subsection (a), which includes the ground of irreconcilable differences, may be taken as confessed and a final decree entered thereon, as in other cases and without corroborative proof or testimony, §§ 36-4-107 and 36-4-114 to the contrary notwithstanding.

(2) For purposes of this section, "without corroborative proof or testimony" means that the petitioner shall not be required to testify as to the material facts constituting irreconcilable differences or any attempts to reconcile such differences.

(e) If there has been a contest or denial of the grounds of irreconcilable differences, no divorce shall be granted on the grounds of irreconcilable differences. However, a divorce may be granted on the grounds of irreconcilable differences where there has been a contest or denial, if a properly executed marital dissolution agreement is presented to the court.

(f) Irreconcilable differences may be asserted as a sole ground for divorce or as an alternate ground for divorce with any other cause for divorce set out in § 36-4-101 or § 36-4-102.

(g) Notwithstanding any law to the contrary requiring mediation, the filing with the court of a properly executed marital dissolution agreement and, if there are minor children of the marriage, a properly executed parenting plan shall serve to remove any requirement that the parties shall attend mediation. If the court does not approve either the marital dissolution agreement or the parenting plan, then any requirement to attend mediation shall be reinstated as of the date of the court's rejection of either agreement.

36-5-117. Reimbursement of clerks of court for activities involving child support, central state case registry and the central collection and disbursement system.

(a)(1) Notwithstanding any law to the contrary, and in lieu of any other fees or costs set forth by law that would otherwise be applicable to cases enforced by the department of human services or its contractors pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), and for activity related to the collection and disbursement of support in cases subject to 42 U.S.C. § 654b, and for their activities required pursuant to § 36-5-115, the

clerks of court shall be reimbursed by the department to the maximum extent permitted under federal law and regulations for the actual costs of providing services for which federal financial participation is available for child and spousal support cases being enforced pursuant to, or otherwise subject to, the requirements of the Title IV-D child support program.

(2) Nothing in this section shall alter the method for payment of court costs in Title IV-D support cases or in non-Title IV-D support cases by private parties, if otherwise permitted by federal law or regulations.

(b) The actual costs and the clerks of court reimbursement rates shall be set according to the Study of Actual Costs of Activities by Clerks of Court for Child and Spousal Support Cases and Determination of Actual Costs for Reimbursement by the department of human services-revised report of study dated November 18, 1998.

(c) [Deleted by 2020 amendment.]

(d) [Deleted by 2020 amendment.]

(e) The cost reimbursement process section shall be implemented upon the implementation of the centralized collection and disbursement system, but in no circumstance later than October 1, 1999. Reimbursement to the clerks of court under the cost reimbursement process shall be made on a monthly basis by electronic fund transfer. Reimbursement of such costs shall be made pursuant to a contract, if required by federal law or regulations, by the department with each clerk who performs such child or spousal support services as may be required by Title IV-D of the Social Security Act. Notwithstanding any law to the contrary, the clerk of the court shall have authority to contract with the department as may be required pursuant to this subsection (e).

(f) Notwithstanding any provision of law to the contrary, upon implementation of the reimbursement process described in this section, any provision of law that would otherwise exempt the department or its contractors from the payment of costs for cases subject to Title IV-D requirements involving child or spousal support services or as otherwise required pursuant to 42 U.S.C. § 654b, shall be superseded by the cost reimbursement provisions of this section, and all costs associated with services provided by the clerks of court to the department or its contractors will be paid according to the cost reimbursement provisions of this section; provided, that the provisions of this subsection (f) negating such exemptions shall not apply to any exemptions from costs or fees required by federal law or regulations or any uniform act.

36-6-101. Decree for custody and support of child — Enforcement — Juvenile court jurisdiction — Presumption of parental fitness — Educational seminars.

(a)(1) In a suit for annulment, divorce or separate maintenance, where the custody of a minor child or minor children is a question, the court may, notwithstanding a decree for annulment, divorce or separate maintenance is denied, award the care, custody and control of such child or children to either of the parties to the suit or to both parties in the instance of joint custody or shared parenting, or to some suitable person, as the welfare and interest of the child or children may demand, and the court may decree that suitable support be made by the natural parents or those who stand in the place of the natural parents by adoption. Such decree shall remain within the control of the court and be subject to such changes or modification as the exigencies

of the case may require.

(2)(A)(i) Except as provided in this subdivision (a)(2)(A), neither a preference nor a presumption for or against joint legal custody, joint physical custody or sole custody is established, but the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted. The burden of proof necessary to modify an order of joint custody at a subsequent proceeding shall be by a preponderance of the evidence.

(ii) Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that custody shall not be awarded to a parent who has been convicted of a criminal offense under title 39, chapter 13, part 5, against a child less than eighteen (18) years of age.

(iii) Subdivision (a)(2)(A)(ii) shall apply only to persons who are convicted on or after July 1, 2006. Subdivision (a)(2)(A)(ii) and this subdivision (a)(2)(A)(iii) shall not be construed to prevent a parent from being granted visitation with the child; provided, however, that any visitation shall be supervised.

(iv) If it is determined by the court, based upon a prior order or reliable evidence, that a parent has willfully abandoned a child for a period of eighteen (18) months, as the term is used in § 36-6-406(a)(1), then, unless the court finds by clear and convincing evidence to the contrary, the abandoning parent's residential time, as provided in the permanent or temporary parenting plan or other court order, shall be limited. This subdivision (a)(2)(A)(iv) shall not be construed to prevent such a parent from being granted limited visitation with the child. Nothing in this subdivision (a)(2)(A)(iv) shall be construed to apply to children in the legal custody of the department of children's services.

(v) If prior to awarding joint legal custody, joint physical custody, or sole custody, the court finds one (1) parent is under indictment for the offense of aggravated child abuse under § 39-15-402, child sexual abuse under § 37-1-602, or severe child sexual abuse under § 36-1-113(g)(11), the court shall not award the parent under indictment any type of custody during the pendency of the indictment unless the presumption created by § 36-6-112(c)(2) is overcome; provided, however, that the court may grant the parent supervised visitation with the child. If the court finds that a parent to whom some form of custody has been ordered is indicted for one (1) of the offenses set out in this subdivision (a)(2)(A)(v), that finding shall constitute a material change in circumstance for the purpose of modifying any existing child custody orders.

(B)(i) If the issue before the court is a modification of the court's prior decree pertaining to custody, the petitioner must prove by a preponderance of the evidence a material change in circumstance. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance may include, but is not limited to, failures to adhere to the parenting plan or an order of custody and visitation or circumstances that make the parenting plan

no longer in the best interest of the child.

(ii) In each contested case, the court shall make such a finding as to the reason and the facts that constitute the basis for the custody determination.

(iii) Nothing contained within this subdivision (a)(2) shall interfere with the requirement that parties to an action for legal separation, annulment, absolute divorce or separate maintenance incorporate a parenting plan into the final decree or decree modifying an existing custody order.

(iv) Nothing in this subsection (a) shall imply a mandatory modification to the child support order.

(C) If the issue before the court is a modification of the court's prior decree pertaining to a residential parenting schedule, then the petitioner must prove by a preponderance of the evidence a material change of circumstance affecting the child's best interest. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance for purposes of modification of a residential parenting schedule may include, but is not limited to, significant changes in the needs of the child over time, which may include changes relating to age; significant changes in the parent's living or working condition that significantly affect parenting; failure to adhere to the parenting plan; or other circumstances making a change in the residential parenting time in the best interest of the child.

(3)(A) Except when the court finds it not to be in the best interests of the affected child, each order pertaining to the custody or possession of a child arising from an action for absolute divorce, divorce from bed and board or annulment shall grant to each parent the rights listed in subdivisions (a)(3)(B)(i)-(vi) during periods when the child is not in that parent's possession or shall incorporate such rights by reference to a prior order. Other orders pertaining to custody or possession of a child may contain the rights listed in subdivisions (a)(3)(B)(i)-(vi).

(B) The referenced rights are as follows:

(i) The right to unimpeded telephone conversations with the child at least twice a week at reasonable times and for reasonable durations. The parent exercising parenting time shall furnish the other parent with a telephone number where the child may be reached at the days and time specified in a parenting plan or other court order or, where days and times are not specified, at reasonable times;

(ii) The right to send mail to the child which the other parent shall not destroy, deface, open or censor. The parent exercising parenting time shall deliver all letters, packages and other material sent to the child by the other parent as soon as received and shall not interfere with their delivery in any way, unless otherwise provided by law or court order;

(iii) The right to receive notice and relevant information as soon as practicable but within twenty-four (24) hours of any hospitalization, major illness or injury, or death of the child. The parent exercising parenting time when such event occurs shall notify the other parent of the event and shall provide all relevant healthcare providers with the contact information for the other parent;

(iv) The right to receive directly from the child's school any educational records customarily made available to parents. Upon request

from one (1) parent, the parent enrolling the child in school shall provide to the other parent as soon as available each academic year the name, address, telephone number and other contact information for the school. In the case of children who are being homeschooled, the parent providing the homeschooling shall advise the other parent of this fact along with the contact information of any sponsoring entity or other entity involved in the child's education, including access to any individual student records or grades available online. The school or homeschooling entity shall be responsible, upon request, to provide to each parent records customarily made available to parents. The school may require a written request which includes a current mailing address and may further require payment of the reasonable costs of duplicating such records. These records include copies of the child's report cards, attendance records, names of teachers, class schedules, and standardized test scores;

(v) Unless otherwise provided by law, the right to receive copies of the child's medical, health or other treatment records directly from the treating physician or healthcare provider. Upon request from one (1) parent, the parent who has arranged for such treatment or health care shall provide to the other parent the name, address, telephone number and other contact information of the physician or healthcare provider. The keeper of the records may require a written request including a current mailing address and may further require payment of the reasonable costs of duplicating such records. No person who receives the mailing address of a requesting parent as a result of this requirement shall provide such address to the other parent or a third person;

(vi) The right to be free of unwarranted derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child;

(vii) The right to be given at least forty-eight (48) hours' notice, whenever possible, of all extracurricular school, athletic, church activities and other activities as to which parental participation or observation would be appropriate, and the opportunity to participate in or observe them. The parent who has enrolled the child in each such activity shall advise the other parent of the activity and provide contact information for the person responsible for its scheduling so that the other parent may make arrangements to participate or observe whenever possible, unless otherwise provided by law or court order;

(viii) The right to receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than forty-eight (48) hours, an itinerary which shall include the planned dates of departure and return, the intended destinations and mode of travel and telephone numbers. The parent traveling with the child or children shall provide this information to the other parent so as to give that parent reasonable notice; and

(ix) The right to access and participation in the child's education on the same basis that are provided to all parents including the right of access to the child during lunch and other school activities; provided, that the participation or access is legal and reasonable; however, access must not interfere with the school's day-to-day operations or with the child's educational schedule.

(C) Any of the foregoing rights may be denied in whole or in part to one or both parents by the court upon a showing that such denial is in the best interests of the child. Nothing herein shall be construed to prohibit the court from ordering additional rights where the facts and circumstances so require.

(D) All parenting plans submitted to the court by one (1) party only shall contain the notarized signature of that party. All parenting plans submitted to the court by both parties jointly shall contain the notarized signature of both parties.

(4) Notwithstanding any common law presumption to the contrary, a finding under former § 36-6-106(a)(8), that child abuse, as defined in § 39-15-401 or § 39-15-402, or child sexual abuse, as defined in § 37-1-602, has occurred within the family shall give rise to a rebuttable presumption that it is detrimental to the child and not in the best interests of the child to award sole custody, joint legal or joint physical custody to the perpetrator of such abuse.

(5) If the issue before the court is modification of a prior decree pertaining to custody pursuant to subdivision (a)(2)(B) or a residential parenting schedule pursuant to subdivision (a)(2)(C), and the parties either announce to the court and place on the record an agreement specifying the terms of the modification, or execute a permanent parenting plan modifying a prior order of the court with respect to custody or a residential parenting schedule which is approved through entry of an agreed order, then the court is not required to inquire further and make an independent determination as to whether the modification is in the best interest of the child. An order of the court approving the agreement and stating that the modification is made by agreement of the parties satisfies the requirements of Rule 52.01 of the Tennessee Rules of Civil Procedure. The court is not required to accept an agreement of the parties modifying a permanent parenting plan, and this subdivision (a)(5) does not diminish the authority of the court to make inquiry and ensure that the modification of the permanent parenting plan is in the best interest of the child, is entered into freely and voluntarily by both parents, and is not the product of duress, coercion, or undue influence.

(b) Notwithstanding any provision of this section to the contrary, the party, or parties, or other person awarded custody and control of such child or children shall be entitled to enforce the court's decree concerning the suitable support of such child or children in the appropriate court of any county in this state in which such child or children reside; provided, that such court shall have divorce jurisdiction, if service of process is effectuated upon the obligor within this state. Jurisdiction to modify or alter such decree shall remain in the exclusive control of the court that issued such decree.

(c) Nothing in this chapter shall be construed to alter, modify or restrict the exclusive jurisdiction of the juvenile court pursuant to § 37-1-103.

(d) It is the legislative intent that the gender of the party seeking custody shall not give rise to a presumption of parental fitness or cause a presumption or constitute a factor in favor or against the award of custody to such party.

(e)(1) In an action for dissolution of marriage involving minor children, or in a post-judgment proceeding involving minor children, if the court finds, on a case by case basis, that it would be in the best interest of the minor children, the court may on its own motion, or on the motion of either party, order the parties, excluding the minor children, to attend an educational seminar

concerning the effects of the dissolution of marriage on the children. The program may be divided into sessions, which in the aggregate shall not exceed four (4) hours in duration. The program shall be educational in nature and not designed for individual therapy.

(2) The fees or costs of the educational sessions under this section, which shall be reasonable, shall be borne by the parties and may be assessed by the court as it deems equitable. Fees may be waived upon motion for indigent persons.

(3) No court shall deny the granting of a divorce from the bonds of matrimony for failure of a party or both parties to attend the educational session. Refusal to attend the educational session may be punished by contempt and may be considered by the court as evidence of the parent's lack of good faith in proceedings under part 4 of this chapter.

36-6-405. Modification of permanent parenting plans.

(a) In a proceeding for a modification of a permanent parenting plan, a proposed parenting plan shall be filed and served with the petition for modification and with the response to the petition for modification. Such plan is not required if the modification pertains only to child support. The obligor parent's proposed parenting plan shall be accompanied by a verified statement of that party's income pursuant to the child support guidelines and related provisions contained in chapter 5 of this title. If the parties cannot agree to a modification of a permanent parenting plan, the process established by § 36-6-404(b) shall be used to establish an amended permanent parenting plan or final decree or judgment.

(b) In a proceeding for a modification of a permanent parenting plan, the existing residential schedule shall not be modified prior to a final hearing unless the parents agree to the modification or the court finds that the child will be subject to a likelihood of substantial harm absent the temporary modification. If a temporary modification of the existing residential schedule is granted ex parte, the respondent shall be entitled to an expedited hearing within fifteen (15) days of the entry of the temporary modification order.

(c) Title IV-D child support cases involving the department of human services or any of its public or private contractors shall be bifurcated from the remaining parental responsibility issues. Separate orders shall be issued concerning Title IV-D issues, which shall not be contained in, or part of, temporary, permanent or modified parenting plans. The department and its public or private contractors shall not be required to participate in mediation or dispute resolution pursuant to this part.

(d) If the parties agree to a modification of an existing permanent parenting plan, and the parties announce to the court and place on the record an agreement specifying the terms of modification, or if the parties execute a permanent parenting plan which modifies a prior order of the court with respect to either custody or residential parenting schedule which is approved through entry of an agreed order, then the court is not required to inquire further and make an independent determination as to whether the modification is in the best interest of the child. An order of the court approving the agreement and stating that the modification is made by agreement of the parties satisfies the requirements of Rule 52.01 of the Tennessee rules of civil procedure. The court is not required to accept an agreement of the parties

modifying a permanent parenting plan, and this subsection (d) does not diminish the authority of the court to make inquiry and ensure that the modification of the permanent parenting plan is in the best interest of the child, is entered into freely and voluntarily by both parents, and is not the product of duress, coercion, or undue influence.

36-6-406. Restrictions in temporary or permanent parenting plans.

(a) The permanent parenting plan and the mechanism for approval of the permanent parenting plan shall not utilize dispute resolution, and a parent's residential time as provided in the permanent parenting plan or temporary parenting plan shall be limited if the limitation is found to be in the best interest of the minor child and if the court determines, based upon a prior order or other reliable evidence, that a parent has engaged in any of the following conduct:

(1) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting responsibilities; or

(2) Physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.

(b) The parent's residential time with the child shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that the parent resides with a person who has engaged in physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.

(c) If a parent has been convicted as an adult of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 — 39-13-511, or has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain the parent from contact with a child that would otherwise be allowed under this part. If a parent resides with an adult who has been convicted, or with a juvenile who has been adjudicated guilty of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 — 39-13-511, or who has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain that parent from contact with the child unless the contact occurs outside the adult's or juvenile's presence and sufficient provisions are established to protect the child.

(d) A parent's involvement or conduct may have an adverse effect on the child's best interest, and the court may preclude or limit any provisions of a parenting plan, if any of the following limiting factors are found to exist after a hearing:

(1) A parent's neglect or substantial nonperformance of parenting responsibilities;

(2) An emotional or physical impairment that interferes with the parent's performance of parenting responsibilities as defined in § 36-6-402;

(3) An impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting responsibilities;

(4) The absence or substantial impairment of emotional ties between the parent and the child;

(5) The abusive use of conflict by the parent that creates the danger of damage to the child's psychological development;

(6) A parent has withheld from the other parent access to the child for a protracted period without good cause;

(7) A parent's criminal convictions as they relate to such parent's ability to parent or to the welfare of the child; or

(8) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(e) In entering a permanent parenting plan, the court shall not draw any presumptions from the temporary parenting plan.

(f)(1) In all Title IV-D child or spousal support cases in which payment of support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994, that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only approve a temporary or permanent parenting plan involving the payment of support that complies with the requirements for central collection and disbursement as required by § 36-5-116. Prior to approval of a parenting plan in which payments are to be made directly to the spouse or the court clerk or to some other person or entity, there shall be filed with the plan presented to the court a written certification, under oath if filed by a party, or signed by the party's counsel, stating whether the case for which the plan is to be approved is a Title IV-D support case subject to enforcement by the department of human services or is otherwise subject to collection through the department's central collection and disbursement unit established by § 36-5-116.

(2) Any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit for support payments shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(g) Forms used by parties as parenting plans or adopted by the court for their use shall conform to all substantive language requirements established by the administrative office of the courts at such time as parenting plan forms are promulgated and approved by that office.

36-6-407. Allocation of parenting responsibilities.

(a) The court shall approve agreements of the parties allocating parenting responsibilities, or specifying rules, if it finds that:

(1) The agreement is consistent with any limitations on a parent's decision-making authority mandated by § 36-6-406;

(2) The agreement is knowing and voluntary; and

(3) The agreement is in the best interest of the child.

(b) The court may consider a parent's refusal, without just cause, to attend a court-ordered parental educational seminar in making an award of sole decision-making authority to the other parent. The court shall order sole decision making to one (1) parent when it finds that:

(1) A limitation on the other parent's decision-making authority is man-

dated by § 36-6-406;

(2) Both parents are opposed to mutual decision making; or

(3) One (1) parent is opposed to mutual decision making, and such opposition is reasonable in light of the parties' inability to satisfy the criteria for mutual decision-making authority.

(c) Except as provided in subsections (a) and (b), the court shall consider the following criteria in allocating decision-making authority:

(1) The existence of a limitation under § 36-6-406;

(2) The history of participation of each parent in decision making in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and whether each parent attended a court-ordered parent education seminar;

(3) Whether the parents have demonstrated the ability and desire to cooperate with one another in decision making regarding the child in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and

(4) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(d) When determining whether an agreement allocating parenting responsibilities is in the best interest of the child pursuant to subdivision (a)(3), the court may consider any evidence submitted by a guardian ad litem appointed for the child, if one has been appointed by the court, subject to the Tennessee Rules of the Supreme Court relative to guidelines for guardians ad litem appointed for minor children in divorce proceedings and the Tennessee Rules of Evidence.

(e) Notwithstanding any provision to the contrary, the requirements of subsection (a) and Rule 52.01 of the Tennessee Rules of Civil Procedure are conclusively satisfied upon the court's approval of the parties' agreement allocating parenting responsibilities, or specifying rules, and written findings of fact and conclusions of law by the court are not required.

36-6-408. Parent educational seminar.

(a) In an action where a permanent parenting plan is or will be entered, each parent shall attend a parent educational seminar as soon as possible after the filing of the complaint. The seminar may be divided into sessions, which in the aggregate must not be less than four (4) hours in duration, and the minor children must be excluded from attending the seminar. The seminar must be educational in nature and not designed for individual therapy. The seminar must educate parents concerning how to protect and enhance the child's emotional development and inform the parents regarding the legal process. The seminar must include:

(1) At least one (1) thirty-minute video on adverse childhood experiences created:

(A) By the department of children's services in conjunction with the Tennessee commission on children and youth; or

(B) As part of the Building Strong Brains Tennessee public awareness campaign; and

(2) A discussion of alternative dispute resolution, marriage counseling, the judicial process, and common perpetrator attitudes and conduct involv-

ing domestic violence.

(b) The fees or costs of the educational sessions under this section, which shall be reasonable, shall be borne by the parties and may be assessed by the court as it deems equitable. Such fees may be waived for indigent persons.

(c) No court shall deny the granting of a divorce from the bonds of matrimony for failure of a party or both parties to attend the educational session.

(d) The requirement of attendance by parents at the parent educational seminar may be waived upon motion by either party and the agreement of the court upon the showing of good cause.

37-1-153. Court files and records — Inspection limited — Exceptions for certain violent offenders — Confidentiality — Expunction.

(a) Except in cases arising under § 37-1-146, all files and records of the court in a proceeding under this part are open to inspection only by:

(1) The judge, officers and professional staff of the court;

(2) The parties to the proceeding and their counsel and representatives;

(3) A public or private agency or institution providing supervision or having custody of the child under order of the court;

(4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court; and

(5) With permission of the court, any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.

(b) Notwithstanding subsection (a), petitions and orders of the court in a delinquency proceeding under this part shall be opened to public inspection and their content subject to disclosure to the public if:

(1)(A) The juvenile is fourteen (14) years of age or older at the time of the alleged act; and

(B) The conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, aggravated sexual battery, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, or especially aggravated kidnapping; or

(2) The conduct constituting the delinquent act, if committed by an adult, would constitute an act of terrorism, as defined by § 39-13-803, or an attempt to commit an act of terrorism.

(c) Notwithstanding the provisions of this section, if a court file or record contains any documents other than petitions and orders, including, but not limited to, a medical report, psychological evaluation or any other document, such document or record shall remain confidential.

(d)(1) Except as otherwise permitted in this section, it is an offense for a person to intentionally disclose or disseminate to the public the files and records of the juvenile court, including the child's name and address.

(2) A violation of this subsection (d) shall be punished as criminal contempt of court as otherwise authorized by law.

(e) Notwithstanding other provisions of this section, where notice is required under § 49-6-3051, an abstract of the appropriate adjudication con-

tained in the court file or record shall be made and provided to the parent, guardian, or other custodian of the juvenile, including the department, and this abstract shall be presented to the school in which the juvenile is, or may be, enrolled, in compliance with § 49-6-3051.

(f)(1) Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently file a motion for expunction of all court files and the juvenile records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the movant:

(A)(i) Is currently seventeen (17) years of age or older;

(ii) Is at least one (1) year removed from the person's most recent delinquency or unruly adjudication;

(iii) Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense following transfer from juvenile court pursuant to § 37-1-134, and has never been convicted of a sexual offense as defined in § 40-39-202, whether in juvenile court, following transfer from juvenile court pursuant to § 37-1-134, or as an adult;

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

(v) Does not have an adjudication of delinquency for a delinquent act that if committed by an adult, would constitute an act of terrorism, as defined by § 39-13-803, or an attempt to commit an act of terrorism;

(B) Has maintained a consistent and exemplary pattern of responsible, productive and civic-minded conduct for one (1) or more years immediately preceding the filing of the expunction motion; or

(C) Has made such an adjustment of circumstances that the court, in its discretion, believes that expunction serves the best interest of the child and the community.

(2) Nothing in this subsection (f) shall be construed to apply to any law enforcement records, files, fingerprints or photographs pertaining to any delinquency or unruly adjudication.

(3) Except as provided in subdivision (f)(13), in any case in which there is successful completion of an informal adjustment without adjudication under § 37-1-110, the juvenile records shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the informal adjustment, of the need to file the motion for expunction after a year of successful completion of an informal adjustment and provide the child with a model expunction motion prepared by the administrative office of the courts. The administrative office of the courts shall create a motion that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(4) Except as provided in subdivision (f)(13), in any case in which there is a successful completion of a pretrial diversion pursuant to § 37-1-110, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the pretrial diversion, of the need to file the motion for expunction after a year of successful completion of the pretrial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks

shall make this model expunction motion accessible to all movants.

(5) Except as provided in subdivision (f)(13), in any case in which there is a successful completion of a judicial diversion pursuant to § 37-1-129, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the judicial diversion, of the need to file the motion for expunction after a year of successful completion of the judicial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(6) In any case that is dismissed, excluding a case dismissed after successful completion of an informal adjustment, pretrial diversion, or judicial diversion, the juvenile record shall be expunged by the juvenile court as a part of the court's order of dismissal, without the filing of a pleading for expunction, and at no cost to the child.

(7) A motion for expunction may be filed prior to the one-year period outlined in subdivisions (f)(3), (f)(4), and (f)(5). If the motion is filed, the court may order all or any portion of the requested expunction if the court finds by clear and convincing evidence that the movant has successfully completed the informal adjustment or diversion and has made such an adjustment of circumstances that the court, in its discretion, determines that expunction serves the best interest of the child and the community.

(8) In any case in which a child's juvenile record contains convictions solely for unruly adjudications or delinquency adjudications for offenses that would be misdemeanors if committed by an adult, the juvenile court shall expunge all court files and records after one (1) year from the child's completion of and discharge from any probation or conditions of supervision, upon the filing of a motion by the child. The court shall inform the child, at the time of adjudication, of the need to file a motion to expunge after a year from the successful completion of probation and provide the child with a model expunction motion prepared by the administrative office of the courts. The administrative office of the courts shall create a motion that can be completed by a child and shall circulate the motion to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all children.

(9) The order of expunction, the original delinquent or unruly petition, and the order of adjudication and disposition under subdivisions (f)(1)-(8) shall be sealed and maintained by the clerk of the court in a locked file cabinet and kept separate from all other records. In courts that maintain a case management system capable of expunging a record and only allowing access to the system administrator, paper copies need not be maintained. The sealed orders and petition shall not be released to anyone except at the written request of the person whose records are expunged or in response to an order of a court with proper jurisdiction. Any person whose records are expunged under subdivisions (f)(1)-(8) shall be restored to the status that the person occupied before arrest, citation, the filing of a juvenile petition, or referral. Once a person's juvenile record is expunged, the person shall not be held criminally liable under any provision of state law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such record or arrest in response to any inquiry made of the person for any purpose.

(10) For purposes of this subsection (f), a juvenile record includes all documents, reports, and information received, kept, or maintained in any form, including electronic, by the juvenile court clerk or juvenile court staff relating to a delinquency or unruly case, with the exception of assessment reports under § 37-1-136.

(11) The court shall inform the child, at the time of adjudication, of the need to file a motion to expunge the child's juvenile record. The administrative office of the courts shall create a motion that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all children.

(12) The court may order all or any portion of a juvenile's court files and juvenile records expunged if:

(A) The juvenile is tried and adjudicated delinquent or unruly by a juvenile court for conduct that would constitute the offense of prostitution under § 39-13-513 or aggravated prostitution under § 39-13-516 if committed by an adult;

(B) The court finds that the conduct upon which the adjudication is based was found to have occurred as a result of the person being a victim of human trafficking under § 39-13-314; and

(C) The juvenile has filed a motion for expunction of all court files and juvenile records.

(13) A juvenile court shall not expunge a juvenile record following successful completion of an informal adjustment under § 37-1-110, pretrial diversion under § 37-1-110, or judicial diversion under § 37-1-129, if the child was accused of a delinquent act that if committed by an adult, would constitute an act of terrorism, as defined by § 39-13-803, or an attempt to commit an act of terrorism.

37-1-154. Law enforcement records — Inspection limited — Exceptions for certain violent offenders.

(a) Unless a charge of delinquency is transferred for criminal prosecution under § 37-1-134, the interest of national security requires or the court otherwise orders in the interest of the child, the law enforcement records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

(1) A juvenile court having the child before it in any proceeding;

(2) Counsel for a party to the proceeding;

(3) The officers of public institutions or agencies to whom the child is committed;

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) A court in which such child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which such child is committed, or by a parole board in considering such child's parole or discharge or in exercising supervision over such child.

(b) Notwithstanding subsection (a), petitions and orders of the court in a delinquency proceeding under this part shall be opened to public inspection and their content subject to disclosure to the public if:

(1)(A) The juvenile is fourteen (14) years of age or older at the time of the

alleged act; and

(B) The conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, aggravated sexual battery, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, or especially aggravated kidnapping; or

(2) The conduct constituting the delinquent act, if committed by an adult, would constitute an act of terrorism, as defined by § 39-13-803, or an attempt to commit an act of terrorism.

(c) Notwithstanding the provisions of this section, if a court file or record contains any documents other than petitions and orders, including, but not limited to, a medical report, psychological evaluation or any other document, such document or record shall remain confidential.

(d)(1) Except as otherwise permitted in this section, it is an offense for a person to intentionally disclose or disseminate to the public the law enforcement records concerning a charge of delinquency, including the child's name and address.

(2) A violation of this subsection (d) shall be punished as criminal contempt of court as otherwise authorized by law.

(e) Notwithstanding other provisions of this section, where notice is required under § 49-6-3051, an abstract of the appropriate adjudication contained in the court file or record shall be made and provided to the parent, guardian, or other custodian of the juvenile, including the department, and this abstract shall be presented to the school in which the juvenile is, or may be, enrolled, in compliance with § 49-6-3051.

37-1-403. Reporting of brutality, abuse, neglect or child sexual abuse — Notification to parents of abuse on school grounds or under school supervision — Confidentiality of records.

(a)(1) Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report such harm immediately if the harm is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.

(2) Any such person with knowledge of the type of harm described in this subsection (a) shall report it, by telephone or otherwise, to the:

(A) Judge having juvenile jurisdiction over the child;

(B) Department, in a manner specified by the department, either by contacting a local representative of the department or by utilizing the department's centralized intake procedure, where applicable;

(C) Sheriff of the county where the child resides; or

(D) Chief law enforcement official of the municipality where the child resides.

(3) If any such person knows or has reasonable cause to suspect that a child has been sexually abused, the person shall report such information in accordance with § 37-1-605, relative to the sexual abuse of children, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such abuse.

(b) The report shall include, to the extent known by the reporter, the name,

address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

(c)(1) If a law enforcement official or judge becomes aware of known or suspected child abuse, through personal knowledge, receipt of a report, or otherwise, such information shall be reported to the department immediately upon the receipt of such information, and, where appropriate, the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(2) A law enforcement official or judge who knows or becomes aware of a person who is convicted of a violation of § 55-10-401 and sentenced under § 55-10-402(b), because such person was at the time of the offense accompanied by a child under eighteen (18) years of age, shall report such information, as provided in subdivision (c)(1), and the department shall consider such information to be appropriate for investigation in the same manner as other reports of suspected child abuse or neglect.

(3)(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

(d) Any person required to report or investigate cases of suspected child abuse who has reasonable cause to suspect that a child died as a result of child abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-409.

(e) Reports involving known or suspected institutional child sexual abuse shall be made and received in the same manner as all other reports made pursuant to chapter 478 of the Public Acts of 1985, relative to the sexual abuse of children. Investigations of institutional child sexual abuse shall be conducted in accordance with § 37-1-606.

(f) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any sexually transmitted disease set out in § 68-10-112, or venereal herpes and chlamydia, in children thirteen (13) years of age or younger, and every superintendent or manager of a clinic, dispensary or charitable or penal institution, in which there is a case of any of the diseases, as set out in this subsection (f), in children thirteen (13) years of age or younger

shall report the case immediately, in writing on a form supplied by the department of health to that department. If the reported cases are confirmed and if sexual abuse is suspected, the department of health will report the case to the department of children's services. The department of children's services will be responsible for any necessary follow-up.

(g) Every physician or other person who makes an initial diagnosis of pregnancy to an unemancipated minor, and every superintendent or manager of a clinic, dispensary or charitable or penal institution in which there is a case of an unemancipated minor who is determined to be pregnant, shall provide to the minor's parent, if the parent is present, and the minor consents, any readily available written information on how to report to the department of children's services an occurrence of sex abuse that may have resulted in the minor's pregnancy, unless disclosure to the parent would violate the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. § 1320d et seq., or the regulations promulgated pursuant to the act.

(1) Failure to provide the written information shall not subject a person to the penalty provided by § 37-1-412.

(2) The department of children's services shall provide to the department of health the relevant written information. The department of health shall distribute copies of the written information to all licensees of the appropriate health-related boards through the boards' routinely issued newsletters. At the time of initial licensure, these boards shall also provide new licensees a copy of the relevant written information for distribution pursuant to this subsection (g).

(h) Nothing in this section shall be construed to prohibit any hospital, clinic, school, or other organization responsible for the care of children, from developing a specific procedure for internally tracking, reporting, or otherwise monitoring a report made by a member of the organization's staff pursuant to this section, including requiring a member of the organization's staff who makes a report to provide a copy of or notice concerning the report to the organization, so long as the procedure does not inhibit, interfere with, or otherwise affect the duty of a person to make a report as required by subsection (a). Nothing in this section shall prevent staff of a hospital or clinic from gathering sufficient information, as determined by the hospital or clinic, in order to make an appropriate medical diagnosis or to provide and document care that is medically indicated, and is needed to determine whether to report an incident as defined in this part. Those activities shall not interfere with nor serve as a substitute for any investigation by law enforcement officials or the department; provided, that, if any hospital, clinic, school or other organization responsible for the care of children develops a procedure for internally tracking, reporting or otherwise monitoring a report pursuant to this section, the identity of the person who made a report of harm pursuant to this section or § 37-1-605 shall be kept confidential.

(i)(1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the department of children's services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

(2) Notwithstanding § 37-5-107 or § 37-1-612, if a school teacher, school official, or other school personnel has knowledge or reasonable cause to

suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section, then the school teacher, school official, or other school personnel must follow the procedures outlined in § 49-6-1601.

(3) For purposes of this subsection (i), "school" means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school.

37-1-605. Reports of known or suspected child sexual abuse — Investigations — Notification to parents of abuse on school grounds or while under school supervision — Confidentiality of records.

(a) Any person including, but not limited to, any:

(1) Physician, osteopathic physician, medical examiner, chiropractor, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons;

(2) Health or mental health professional other than one listed in subdivision (1);

(3) Practitioner who relies solely on spiritual means for healing;

(4) School teacher or other school official or personnel;

(5) Judge of any court of the state;

(6) Social worker, day care center worker, or other professional child care, foster care, residential or institutional worker;

(7) Law enforcement officer;

(8) Authority figure at a community facility, including any facility used for recreation or social assemblies, for educational, religious, social, health, or welfare purposes, including, but not limited to, facilities operated by schools, the boy or girl scouts, the YMCA or YWCA, the boys and girls club, or church or religious organizations; or

(9) Neighbor, relative, friend or any other person;

who knows or has reasonable cause to suspect that a child has been sexually abused shall report such knowledge or suspicion to the department in the manner prescribed in subsection (b).

(b)(1) Each report of known or suspected child sexual abuse pursuant to this section shall be made immediately to the local office of the department responsible for the investigation of reports made pursuant to this section or to the judge having juvenile jurisdiction or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Each report of known or suspected child sexual abuse occurring in a facility licensed by the department of mental health and substance abuse services, as defined in § 33-2-403, or any hospital, shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred. In addition to those procedures provided by this part, § 37-1-405 shall also apply to all cases reported hereunder.

(2) If a law enforcement official or judge becomes aware of known or suspected child sexual abuse, through personal knowledge, receipt of a report or otherwise, such information shall be reported to the department immediately and the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further

criminal investigation by such official shall be appropriately conducted.

(3) Reports involving known or suspected institutional child sexual abuse shall be made and received in the same manner as all other reports made pursuant to this section.

(c) Any person required to report or investigate cases of suspected child sexual abuse who has reasonable cause to suspect that a child died as a result of child sexual abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-612.

(d)(1) Notwithstanding § 37-5-107 or § 37-1-612, if a school teacher, school official, or other school personnel has knowledge or reasonable cause to suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section, then the school teacher, school official, or other school personnel must follow the procedures outlined in § 49-6-1601.

(2) For purposes of this subsection (d), "school" means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school.

37-2-402. Part definitions.

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

(1)(A) "Abandonment" for purposes of terminating the parental or guardian rights of a parent or a guardian of a child to that child in order to make that child available for adoption, has the same meaning as defined in § 36-1-102;

(B) For purposes of this subdivision (1), "token support" means that the support, under the circumstances of the individual case, is insignificant given the parent's means;

(C) For purposes of this subdivision (1), "token visitation" means that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child;

(D) For purposes of this subdivision (1), "willfully failed to support" or "willfully failed to make reasonable payments toward such child's support" means that, for a period of four (4) consecutive months, no monetary support was paid or that the amount of support paid is token support;

(E) For purposes of this subdivision (1), "willfully failed to visit" means the willful failure, for a period of four (4) consecutive months, to visit or engage in more than token visitation;

(F) Abandonment may not be repented of by resuming visitation or support subsequent to the filing of any petition seeking to terminate parental or guardianship rights or seeking the adoption of a child; and

(G) "Abandonment" and "abandonment of infant" do not have any other definition except that which is set forth herein, it being the intent of the general assembly to establish the only grounds for abandonment by

statutory definition. Specifically, it shall not be required that a parent be shown to have evinced a settled purpose to forego all parental rights and responsibilities in order for a determination of abandonment to be made. Decisions of any court to the contrary are hereby legislatively overruled;

(2) "Abandonment of an infant" means, for purposes of terminating parental or guardian rights, "abandonment" of a child under one (1) year of age;

(3) "Agency" means a child care agency, as defined in title 71, chapter 3, part 5, or in chapter 5, part 5 of this title, regardless of whether such agency is licensed or approved, and includes the department of children's services;

(4) "Board" means an advisory review board appointed by a juvenile court judge, juvenile court judges, or the department of children's services as provided in this part;

(5) "Court" means the juvenile court having jurisdiction over the person of the child, or, if no juvenile court has jurisdiction over the child, then the juvenile court in the county in which the child resides;

(6) "Date of foster care placement" means the original date on which the child is physically placed in foster care;

(7) "Judge" means a juvenile judge or the judge having jurisdiction over the person of the child;

(8) "Parent" means the natural parent or legal guardian, except in cases when guardianship is held by an agency pursuant to a determination of abandonment or surrender of parental rights;

(9) "Plan" or "permanency plan" means a written plan for a child placed in foster care with the department of children's services or in the care of an agency as defined in subdivision (3) and as provided in § 37-2-403; and

(10) "Report" means a written report by an advisory review board as provided in § 37-2-406 or by the department of children's services or by an agency having custody of a child as provided in § 37-2-404.

37-10-304. Applicability — Pseudonym — Counsel — Court proceedings — Appeals.

(a) The requirements and procedures under this part are available and apply to minors, whether or not they are residents of this state.

(b) The court shall ensure that the minor's identity is kept anonymous. The minor shall be allowed to proceed under a pseudonym and shall be allowed to sign all documents, including the petition, by that pseudonym. In any proceedings involving the use of a pseudonym by the minor, the court shall require one (1) copy of the petition to be filed, under seal, that contains the true name of the minor. This copy of the petition shall be kept in a separate file, under seal, and shall not be available for inspection by anyone, except as provided in subsection (h).

(c)(1) The minor may participate in proceedings in the court on the minor's own behalf or through a next friend. The court shall advise the minor that the minor has a right to court-appointed counsel and shall provide the minor with such counsel upon the minor's request. The state shall further provide a court-appointed advocate in each judicial district to give information regarding the legal process to the minor and to coordinate with the court-appointed counsel. Such court-appointed advocates shall be compensated from funds appropriated for the reimbursement of court-appointed

counsel.

(2) [Deleted by 2020 amendment.]

(d) Court proceedings under this section shall be given such precedence over other pending matters as is necessary to ensure that the court may reach a decision promptly, but in no case shall the court fail to rule within forty-eight (48) hours of the time of application; provided, that the forty-eight-hour limitation may be extended at the request of the minor. If, for any reason except the request of the minor, the court shall not have ruled within forty-eight (48) hours, the minor may deem the petition denied and immediately appeal the denial as provided in subsection (g). This provision is not deemed to restrict or forbid any other remedy now existing or hereafter enacted in such a situation.

(e) The consent requirement shall be waived if the court finds either that:

(1) The minor is mature and well-informed enough to make the abortion decision on the minor's own; or

(2) The performance of the abortion would be in the minor's best interests.

(f) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence be maintained.

(g) An expedited, anonymous appeal shall be available to any minor. The appeal shall be de novo to the circuit court for the county in which the juvenile court is located. The appeal may be heard by the circuit court judge sitting in another county if necessary to meet the time limitations of this section. A notice of appeal shall be filed within twenty-four (24) hours of the decision by the juvenile court, but may be filed at any time, if the juvenile court has not ruled within forty-eight (48) hours of the filing of the petition. The record from the juvenile court must be received in the circuit court and the appeal docketed there within five (5) calendar days of the filing of the notice of appeal. The appeal shall be heard and a decision rendered by the circuit court within five (5) calendar days from when the case is docketed in the circuit court. For the purpose of expediting the appellate procedure under this section, the time requirements of this section may be reduced by the Tennessee supreme court pursuant to its rulemaking authority in order to ensure an expedited appeal. The decision of the circuit court shall be appealable to the Tennessee supreme court in an anonymous and expedited manner as provided by the rules of the Tennessee supreme court. Jurisdiction under this section will remain in the Tennessee supreme court, notwithstanding any other statute or rule to the contrary.

(h) All court files, documents, exhibits, and all other records lodged in or subject to the control of the court shall be kept confidential and under seal. Statistical summaries of these proceedings may be compiled for such reporting purposes as the supreme court may by rule require or allow. However, no information shall be released for these purposes that would tend to identify any minor who has made use of this procedure.

(i) The supreme court is respectfully requested to promulgate any rules necessary to ensure that proceedings under this part are handled in an expeditious and anonymous manner, including any amendments to the Tennessee Rules of Appellate Procedure, Tennessee Rules of Civil Procedure and Tennessee Rules of Juvenile Procedure.

(j) No fees shall be required of any minor who makes use of the procedures provided by this section.

38-6-102. Criminal investigation division — Criminal intelligence unit — Investigations into domestic terrorism — Emergency situation traffic stops.

(a) The criminal investigation division shall consist of not less than six (6) persons who shall be experienced in the detection of crime and in criminal work generally. The director, with the approval of the governor, however, may increase the number of persons employed in the criminal investigation division, to such number as may be found to be feasible and necessary. At least two (2) of the criminal investigators shall be normally detailed to service in each grand division of the state, but the director shall have power to detail any and all of the investigators to service in grand divisions in case of emergency. The director, upon the request of the district attorney general of any judicial district, may assign the criminal investigators to aid that district attorney general in the investigation of any crime committed in the district attorney general's judicial district, but only when the district attorney general requests such aid. When detailed by the director to aid the district attorney general, the criminal investigators shall have full power to issue subpoenas for witnesses, serve the subpoenas, administer oaths to witnesses as they may summon, to take written statements from them and, when so detailed, shall have the same powers with reference to the execution of criminal process, making arrests, and the like, as does the sheriff of the county in which the investigators are at work.

(b)(1) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make investigations in connection with any matters pertaining to:

(A) Fugitives from justice;

(B) Commission of any offense prohibited by title 39, chapter 16, part 4, or any other offense involving corruption of or misconduct by a public official;

(C) Employees or prospective employees of the bureau or the department of safety;

(D) Organized crime activities;

(E) Fraudulent conduct involving social security administration Title II and Title XVI disability programs; provided, however, that the authority conferred upon the bureau by this subdivision (b)(1)(E) shall automatically terminate upon discontinuation of federal funding for reimbursement of bureau costs associated with investigations of fraudulent conduct involving Title II and Title XVI disability programs;

(F) Victimization of children by means of a computer or other electronic communications device;

(G) Commission of an offense involving any form of trafficking prohibited by title 39, chapter 13, part 3; or

(H) Commission of an offense prohibited by title 39, chapter 14, part 3.

(2)(A) For the purposes of subsection (b), "organized crime" is defined as the unlawful activities of the members of an organized, disciplined association engaged in supplying illegal goods and services, including, but not limited to, gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(B) The bureau is authorized to investigate allegations of felonious conduct resulting in serious bodily injury to a state inmate who is housed

in a county or private correctional facility where the alleged perpetrator is an official, employee or trustee of the county or a private vendor if, after the district attorney general is notified by the department of correction of such felonious conduct, the district attorney general refuses to request the bureau to make an investigation. The bureau shall forward the results of any such investigation to the department of correction and the district attorney general.

(C) The bureau also is authorized, upon the request of the governor, the attorney general and reporter, any member of the board, the commissioner of correction or a district attorney general to conduct investigations into allegations of fraud, corruption, or dishonesty involving the granting, revoking or denying of paroles, release classification status or executive clemency of any type. The governor, a district attorney general, the attorney general and reporter, or the board of parole acting at the request of the governor, may request the assistance of the bureau to determine whether any recipient of executive clemency of any type has been or is presently abiding by the terms and conditions imposed upon the governor's granting of executive clemency of any type.

(D) The bureau shall coordinate its activities whenever possible with municipal, county, and federal police agencies with emphasis toward providing strike force capabilities to high crime areas within the state.

(E) The bureau shall continue to utilize the communications systems of the department of safety.

(F) The bureau is also authorized, in consultation with the appropriate department or agency, to conduct an investigation into a violation of a criminal offense:

(i) In which the victim of the offense is a state employee or contractor who was acting in the employee or contractor's official capacity at the time of the offense;

(ii) That resulted in state property being damaged or destroyed as a result of the offense; or

(iii) That delayed the administration of state government at a significant cost to the state.

(c) Whenever a district attorney general refuses or neglects to present the results of any investigation undertaken under this section to a grand jury, the director, or the director's designated representative, may appear before the grand jury and seek a presentment, and the grand jury shall have the power to issue compulsory process for the appearance of witnesses. In the event the grand jury returns a presentment and the district attorney general refuses to prosecute, the director may petition for the appointment of a district attorney general pro tempore as provided for in § 8-7-106.

(d) The director shall cause to be established within the criminal investigation division a criminal intelligence unit (CIU). It shall be the responsibility of the CIU, through the automated criminal intelligence system of Tennessee (ACIST), as well as through criminal investigators assigned to each of the bureau's four regional offices, to gather and maintain criminal intelligence on criminal gang activity. Intelligence collected pursuant to this section shall be reviewed for compliance with 28 CFR Part 23.20 and shall be disseminated to local, state, and federal law enforcement agencies pursuant to 28 CFR Part 23.20. The bureau shall analyze all criminal intelligence collected, and shall compile statistical information for dissemination through the national inci-

dent-based reporting system (NIBRS) and the bureau's annual report.

(e)(1) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received under a government information security classification. Investigators may make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received from nonclassified sources upon the request of the district attorney general.

(2) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make traffic stops in emergency situations in which the safety of the public is in jeopardy and no officer from the appropriate law enforcement agency is immediately available to make the stop. For purposes of this subdivision (e)(2), "emergency situations" is limited to driving under the influence of an intoxicant pursuant to § 55-10-401, and reckless endangerment pursuant to § 39-13-103 involving the traffic stop. Investigators may also assist stranded motorists.

(f) On or before January 1, 2022, the district attorneys general conference shall file a report with the speakers of the senate and house of representatives and the chairs of the judiciary committees of the senate and house of representatives detailing by geographic location within this state:

(1) The aggregate number of reports of potential violations of criminal offenses described in subdivision (b)(2)(F);

(2) The action taken by the appropriate district attorney for each report; and

(3) The legal disposition of any case resulting from each report.

38-6-103. Forensic services division — Purchase of breathalyzer tests by local governments.

(a) The forensic services division shall consist of experts in the scientific detection of crime. The director is empowered to employ, either upon a temporary or permanent basis, but is not limited to, ballistics experts, pathologists, toxicologists, experts in the detection of human bloodstains and fingerprint experts and such other persons of expert knowledge in the detection of crime as may be found feasible. It shall be the duty of the forensic services division to keep a complete record of fingerprints obtained by it through exchange with the federal bureau of investigation, with similar bureaus in other states and from fingerprints obtained in this state. Each peace officer of this state, upon fingerprinting any person arrested, shall furnish a copy of the fingerprints to the forensic services division of the bureau. Likewise, such fingerprints as are now on file at the state penitentiary shall be transferred from the penitentiary to the bureau and maintained by it. Each person received at the state penitentiary shall be fingerprinted and a copy of the fingerprints furnished to the bureau. The bureau is authorized to exchange with the federal bureau of investigation any and all information obtained by the bureau in the course of its work and to request of the federal bureau of investigation such information as the bureau may desire.

(b) The services of the forensic services division may be made available by the director to any district attorney general of this state, the chief medical examiner and all county medical examiners in the performance of their duties under the post-mortem examination law or to any peace officer upon the

approval of the district attorney general of the district in which such peace officer is located. The forensic services division likewise is authorized to avail itself of the services of any and all other departments of the state where the same may be of benefit to it, including, but not limited to, the state chemists and other expert personnel.

(c) The Tennessee crime laboratory and all regional crime laboratories shall be under the supervision of the director of the bureau or the director's designated representatives.

(d)(1)(A) The following fees shall be adjudged as a part of the costs in each case upon conviction of the following offenses:

(i) Controlled substances, controlled substance analogues, narcotics, drugs $20.00

(ii) Driving a motor vehicle, or operating a boat while under the influence of intoxicants and/or drugs, except as provided in § 55-10-413(d) 17.50

(iii) Certification of criminal histories and records ..... Amount fixed by the federal bureau of investigation

(iv) Upon the forfeiture of a cash bond or other surety entered as a result of a municipal traffic citation, whether considered a fine, a bond or a tax.....13.75.

(B) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law.

(C) Except when and as provided in this subdivision (d)(1) and subdivision (e)(2), the appropriate clerk, after deducting five percent (5%) as compensation when applicable, shall identify those fees set out in subdivisions (d)(1)(A)(i)-(iv) to the Tennessee bureau of investigation and remit the fees to the state treasury to be expended as appropriated by the general assembly.

(D) Any moneys in the TBI fund, created pursuant to Chapter 1019 of the Public Acts of 2010, on June 30, 2020, shall revert to the general fund on such date, to be used only as appropriated by the general assembly.

(2) Upon approval of the director, local governing bodies which have the responsibility for providing funding for sheriffs' offices and police departments are authorized to purchase from state contracts approved for bureau purchases, scientific instruments designed to examine a person's breath and measure the alcohol content of a person's breath, for use as evidence in the trial of cases; provided, that prior to use of the scientific instruments, such instruments must be delivered to the forensic services division for testing and certification pursuant to subsection (g). The bureau shall continue to maintain and certify the instruments and operating personnel, pursuant to subsection (g), and furnish expert testimony in support of the use of the scientific instruments when required.

(e)(1) Any fees authorized for services rendered by the bureau that are not incident to a court case shall be paid to the Tennessee bureau of investigation for deposit with the state treasurer for expenditure as provided for by this section.

(2) Every local governing body purchasing the instruments pursuant to subsection (d) shall report the use of the instrument to the clerk of the court, for inclusion of the service fee as a part of the court costs, which service fee shall be disbursed to the local governing body until the purchase price is recovered. Thereafter, the service fee shall be disbursed by the clerk to the

bureau, for payment to the state treasurer as required by subsection (f).

(f) All revenue resulting from fines, forfeitures and services rendered by the bureau shall be paid to the state treasurer and used only as appropriated by the general assembly.

(g) The bureau, through its forensic services division, shall establish, authorize, approve and certify techniques, methods, procedures and instruments for the scientific examination and analysis of evidence, including blood, urine, breath or other bodily substances, and teach and certify qualifying personnel in the operation of such instruments to meet the requirements of the law for the admissibility of evidence. When examinations, tests and analyses have been performed in compliance with these standards and procedures, the results shall be prima facie admissible into evidence in any judicial or quasi-judicial proceeding, subject to the rules of evidence as administered by the courts.

(h)(1) Effective July 1, 2006, there is created within the Tennessee bureau of investigation's serology/DNA unit, six (6) additional special agent/forensic scientist positions to perform DNA analysis in criminal investigations. The positions shall be in addition to any position that was created and funded prior to July 1, 2006, or that may be created in the future. The director shall determine to which of the bureau's forensic laboratories each of the six (6) special agents/forensic scientists employed pursuant to this subsection (h) shall be assigned. The assignments shall be based upon the number of criminal investigations requiring DNA analysis in each of the laboratories, the DNA analysis backlog and such other factors as the director determines will most quickly and efficiently reduce the backlog of DNA samples awaiting analysis.

(2) When the backlog of criminal investigations awaiting DNA analysis becomes current, the director shall continue to utilize these six (6) positions in the various bureau laboratories, as needed to prevent any future backlog of analysis requests and to expedite the analysis of future requests.

38-6-118. Expunged criminal offender and pretrial diversion database.

(a)(1) The Tennessee bureau of investigation shall establish within the bureau an expunged criminal offender and pretrial diversion database. Such database shall consist of the name, date of birth, social security number, charging offense, date of dismissal and date of expunction of a criminal offender who has:

(A) Been granted diversion either under title 40, chapter 15 or § 40-35-313; provided, however, that the bureau shall not be required to enter or maintain information into its database concerning any dismissal or expunction order dated on or after July 1, 1999, if the charge dismissed or expunged is classified as a Class B or C misdemeanor;

(B) Had the public records of such offense expunged following the dismissal of charges against the offender by reason of the successful completion of either the diversion program; or

(C) Had the public records of such offense expunged following the dismissal of charges for any other reason.

(2) The bureau shall obtain the information for the database from the abstracts or copies of orders sent to it by judges pursuant to §§ 40-15-105,

40-32-101 and 40-35-313. The bureau shall also obtain information for the database from its confidential records maintained for law enforcement purposes, the public portion of which were expunged prior to October 1, 1998.

(b)(1) When a judge or district attorney general requests a certificate from the bureau relative to a defendant's eligibility for pretrial diversion pursuant to title 40, chapter 15 or § 40-35-313, the bureau shall conduct a criminal history record check based upon the defendant's name, date of birth and social security number to determine if the defendant:

(A) Has a prior felony or Class A misdemeanor conviction;

(B) Has ever previously been granted a type of diversion; and

(C) Has ever had an order expunging the public records of a criminal offense following the dismissal of charges entered on behalf of such defendant.

(2) The bureau shall certify the results of such search to the requesting judge or district attorney general. The bureau shall not be required to search any other source or database in order to make the certification required by this section.

(c) Funding for the operational expenses of this section shall be as stated under § 40-32-101(d)(2) [repealed].

(d) Except for the purpose of certifying to judges and district attorneys general the information required in subsection (b), the expunged criminal offender and pretrial diversion database created by this section is not a public record and shall be maintained as confidential by the bureau; provided, however, that the bureau shall forward all information on expunction orders to the administrative office of the courts for the sole purpose of ensuring the expunction of records from the databases maintained pursuant to §§ 16-1-117 and 16-3-803(i).

(e) Upon a defendant's request for diversion pursuant to title 40, chapter 15, or § 40-35-313, all of which require a certificate from the bureau relative to the defendant's eligibility for diversion, the defendant shall pay a fee of one hundred dollars ($100) to the bureau for remittance to the state treasury to be deposited in the general fund of the state.

38-6-127. Applicability of endangered child and young adult alert program to endangered person under 21 years of age.

Notwithstanding any law to the contrary and for purposes of any endangered child and young adult alert program implemented by the Tennessee bureau of investigation that is distinct from the America's Missing Broadcast Emergency Response (AMBER) Alert system and that is used to notify local media about a missing child or young adult, along with any additional available information, such program shall be applied to a person who is under twenty-one (21) years of age and who meets the criteria of being endangered, as established or determined by the bureau.

38-11-201. [Repealed.]

38-11-202. [Repealed.]

38-11-203. [Repealed.]

38-11-204. [Repealed.]

38-11-205. [Repealed.]

38-11-206. [Repealed.]

39-11-106. Title definitions.

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

(1) "Antique firearm" means:

(A) Any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before the year 1898;

(B) Any replica of any firearm described in subdivision (a)(1)(A) if such replica:

(i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition;

(2) "Benefit" means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;

(3) "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;

(4) "Coercion" means a threat, however communicated, to:

(A) Commit any offense;

(B) Wrongfully accuse any person of any offense;

(C) Expose any person to hatred, contempt or ridicule;

(D) Harm the credit or business repute of any person; or

(E) Take or withhold action as a public servant or cause a public servant to take or withhold action;

(5) "Criminal negligence" refers to a person who acts with criminal negligence with respect to the circumstances surrounding that person's conduct or the result of that conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(6) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made or adapted for the

purpose of inflicting death or serious bodily injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious bodily injury;

(7)(A) "Deception" means that a person knowingly:

(i) Creates or reinforces a false impression by words or conduct, including false impressions of fact, law, value or intention or other state of mind that the person does not believe to be true;

(ii) Prevents another from acquiring information which would likely affect the other's judgment in the transaction;

(iii) Fails to correct a false impression of law or fact the person knows to be false and:

(a) The person created; or

(b) Knows is likely to influence another;

(iv) Fails to disclose a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the impediment is or is not valid, or is or is not a matter of public record;

(v) Employs any other scheme to defraud; or

(vi)*(a)* Promises performance that at the time the person knew the person did not have the ability to perform or that the person does not intend to perform or knows will not be performed, except mere failure to perform is insufficient to establish that the person did not intend to perform or knew the promise would not be performed;

(b) Promising performance includes issuing a check or similar sight order for the payment of money or use of a credit or debit card when the person knows the check, sight order, or credit or debit slip will not be honored for any reason;

(B) "Deception" does not include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed;

(8) "Defendant" means a person accused of an offense under this title and includes any person who aids or abets the commission of such offense;

(9) "Deprive" means to:

(A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;

(B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or

(C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;

(10) "Destructive device":

(A) Means:

(i) Any explosive, incendiary, or poison gas:

(a) Bomb;

(b) Grenade;

(c) Rocket having a propellant charge of more than four ounces (4 oz.);

(d) Missile having an explosive or incendiary charge of more than one-quarter ounce (0.25 oz.);

(e) Mine; or

(f) Device similar to any of the devices described in subdivisions (a)(10)(A)(i)(a)-(e); and

(ii) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subdivision (a)(10)(A)(i) and from which a destructive device may be readily assembled; and

(B) Does not include:

(i) Any device that is neither designed nor redesigned for use as a weapon;

(ii) Any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device;

(iii) Surplus ordnance sold, loaned, or given by the secretary of the Army pursuant to 10 U.S.C. § 7684(2), 10 U.S.C. § 7685, or 10 U.S.C. § 7686;

(iv) Any antique or rifle which the owner intends to use solely for sporting purposes; or

(v) Any other device that is not likely to be used as a weapon;

(11) "Effective consent" means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

(A) Induced by deception or coercion;

(B) Given by a person the defendant knows is not authorized to act as an agent;

(C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or

(D) Given solely to detect the commission of an offense;

(12) "Emancipated minor" means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor's parents;

(13) "Firearm":

(A) Means:

(i) Any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(ii) The frame or receiver of any such weapon;

(iii) Any firearm muffler or firearm silencer; or

(iv) Any destructive device; and

(B) Does not include an antique firearm;

(14) "Force" means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;

(15) "Fraud" means as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;

(16) "Government" means the state or any political subdivision of the state, and includes any branch or agency of the state, a county, municipality or other political subdivision;

(17) "Governmental record" means anything:

(A) Belonging to, received or kept by the government for information; or

(B) Required by law to be kept by others for information of the government;

(18) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1)

hand;

(19) "Harm" means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;

(20) "Intentional" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result;

(21) "Jail" includes workhouse and "workhouse" includes jail, whenever the context so requires or will permit;

(22) "Knowing" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result;

(23) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:

(A) Maintain public order; or

(B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(C) Investigate the commission or suspected commission of offenses;

(24) "Legal privilege" means a particular or peculiar benefit or advantage created by law;

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

(26)(A) "Obtain" means to:

(i) Bring about a transfer or purported transfer of property or of a legally recognized interest in the property, whether to the defendant or another; or

(ii) Secure the performance of service;

(B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;

(27) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;

(28) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;

(29) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;

(30) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water,

cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;

(31) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;

(32) "Public servant" means:

(A) Any public officer or employee of the state or of any political subdivision of the state or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;

(B) Any person exercising the functions of any such public officer or employee;

(C) Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or jurors; or

(D) Any person elected, appointed or designated to become a public servant, although not yet occupying that position;

(33) "Reckless" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(34)(A) "Recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored;

(B) "Recorded device" includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;

(35) "Security guard/officer" means an individual employed to perform any function of a security guard/officer and security guard/officer patrol service as set forth in the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35;

(36) "Serious bodily injury" means bodily injury that involves:

(A) A substantial risk of death;

(B) Protracted unconsciousness;

(C) Extreme physical pain;

(D) Protracted or obvious disfigurement;

(E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or

(F) A broken bone of a child who is twelve (12) years of age or less;

(37) "Services" includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television, entertainment subscription service or other public services, accommodations in

hotels, restaurants or elsewhere, admissions to exhibitions, use of vehicles or other movable property, and any other activity or product considered in the ordinary course of business to be a service, regardless of whether it is listed in this subdivision (a)(37) or a specific statute exists covering the same or similar conduct; and

(38) "Value":

(A) Subject to the additional criteria of subdivisions (a)(38)(B)-(D), "value" under this title means:

(i) The fair market value of the property or service at the time and place of the offense; or

(ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;

(B) The value of documents, other than those having a readily ascertainable fair market value, means:

(i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or

(ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;

(C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(38)(A) and (B), the property or service is deemed to have a value of less than fifty dollars ($50.00);

(D) If the defendant gave consideration for or had a legal interest in the property or service that is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(38)(A), (B) or (C) to determine value; and

(E) For a violation of § 39-14-408(b)(1), the value of the property includes the fair market value of repairing, cleaning, and restoring the property.

(b) The definition of a term in subsection (a) applies to each grammatical variation of the term.

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 under:

(A) Subdivision (a)(1) is a Class A misdemeanor, punishable by incarceration and a fine not to exceed fifteen thousand dollars ($15,000);

(B) Subdivision (a)(2) is a Class A misdemeanor; and

(C) Subdivision (a)(3) is a Class B misdemeanor.

(2) Any conduct by an inmate against a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse, that would constitute an assault under subdivision (a)(1) shall be reported by the managing authority of the institution to the appropriate district

attorney general for prosecution.

(3) 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 domestic abuse victim as defined in § 36-3-601, 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 no less than one hundred dollars ($100) and not in excess of two hundred dollars ($200). The 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 fine to the general fund. All 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.

(c) For purposes of this section and § 39-13-102, "health care provider" means a person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business in the practicing of a profession.

39-13-102. Aggravated assault.

(a)(1) A person commits aggravated assault who:

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

(i) Results in serious bodily injury to another;

(ii) Results in the death of another;

(iii) Involved the use or display of a deadly weapon; or

(iv) Involved strangulation or attempted strangulation; or

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

(i) Results in serious bodily injury to another;

(ii) Results in the death of another; or

(iii) Involved the use or display of a deadly weapon.

(2) For purposes of subdivision (a)(1)(A)(iv), "strangulation" means intentionally or knowingly impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the nose and mouth of another person, regardless of whether that conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

(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 the 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 the individual or individuals.

(d) [Deleted by 2018 amendment.]

(e)(1)(A) Aggravated assault under:

(i) [Deleted by 2018 amendment.]

(ii) Subdivision (a)(1)(A)(i), (iii), or (iv) is a Class C felony;

(iii) Subdivision (a)(1)(A)(ii) is a Class C felony;

(iv) Subdivision (b) or (c) is a Class C felony;

(v) Subdivision (a)(1)(B)(i) or (iii) is a Class D felony;

(vi) Subdivision (a)(1)(B)(ii) is a Class D felony.

(B) Notwithstanding the authorized fines established in § 40-35-111, a violation of this section is punishable by a fine not to exceed fifteen thousand dollars ($15,000), in addition to any other punishment authorized by § 40-35-111.

(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 domestic abuse victim as defined in § 36-3-601, 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). The 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 fine to the general fund. All 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.

(3)(A) In addition to any other punishment authorized by this section, the court shall order a person convicted of aggravated assault under the circumstances set out in this subdivision (e)(3) to pay restitution to the victim of the offense. Additionally, the judge shall order the warden, chief operating officer, or workhouse administrator to deduct fifty percent (50%) of the restitution ordered from the inmate's commissary account or any other account or fund established by or for the benefit of the inmate while incarcerated. The judge may authorize the deduction of up to one hundred percent (100%) of the restitution ordered.

(B) Subdivision (e)(3)(A) applies if:

(i) The victim of the aggravated assault is a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse;

(ii) The offense occurred while the victim was in the discharge of official duties and within the victim's scope of employment; and

(iii) The person committing the assault was at the time of the offense, and at the time of the conviction, serving a sentence of incarceration in a public or private penal institution as defined in § 39-16-601.

(4) 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 domestic abuse victim as defined in § 36-3-601, the court shall assess each person convicted an electronic monitoring indigency fee of ten dollars ($10.00). All proceeds collected pursuant to this subdivision (e)(4) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund, established in § 55-10-419.

(5) Notwithstanding this subsection (e), a person convicted of a violation of subdivision (a)(1)(A)(i), (a)(1)(A)(ii), (a)(1)(B)(i), or (a)(1)(B)(ii) shall be punished one (1) classification higher than is otherwise provided if:

(A) The violation was committed by discharging a firearm from within a motor vehicle, as defined by § 55-1-103; and

(B) The victim was a minor at the time of the violation.

39-13-116. Assault against first responder — "First responder" defined — Penalties.

(a) A person commits assault against a first responder, who is discharging or attempting to discharge the first responder's official duties, who:

(1) Knowingly causes bodily injury to a first responder; or

(2) Knowingly causes physical contact with a first responder and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of a first responder.

(b) A person commits aggravated assault against a first responder, who is discharging or attempting to discharge the first responder's official duties, who knowingly commits an assault under subsection (a), and the assault:

(1) Results in serious bodily injury to the first responder;

(2) Results in the death of the first responder;

(3) Involved the use or display of a deadly weapon; or

(4) Involved strangulation or attempted strangulation.

(c)(1) Assault under subsection (a) is a Class A misdemeanor, and shall be punished by a mandatory fine of five thousand dollars ($5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant shall not be eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.

(2) Aggravated assault under subsection (b) is a Class C felony, and shall be punished by a mandatory fine of fifteen thousand dollars ($15,000) and a mandatory minimum sentence of ninety (90) days incarceration. The defendant shall not be eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.

(d) For purposes of this section, "first responder":

(1) Means a firefighter, emergency services personnel, POST-certified law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and

(2) Includes capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, and park rangers employed by the division of parks and recreation in the department of environment and conservation.

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 the victim is more than eight (8) years of age but less than thirteen (13) years of age.

(b)(1) Rape of a child is a Class A felony.

(2)(A) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within

Range III but in no case shall it be lower than Range II.

(B) Section 39-13-525(a) shall not apply to a person sentenced under this subdivision (b)(2).

(C) Notwithstanding any law to the contrary, the board of parole may require, as a mandatory condition of supervision for any person convicted under this section, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of supervision consistent with the requirements of § 40-39-302.

39-13-531. Aggravated rape of a child.

(a) Aggravated rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is eight (8) years of age or less.

(b)(1) Aggravated rape of a child is a Class A felony.

(2) The applicable sentencing provisions of title 40, chapter 35, apply to the offense prohibited by this section except:

(A) A sentencing hearing shall not be conducted as required by § 40-35-209; and

(B) After a defendant is found guilty of aggravated rape of a child, the judge shall sentence the defendant to imprisonment for life without the possibility of parole.

39-14-113. Organized Retail Crime Prevention Act.

(a) This section shall be known and may be cited as the "Organized Retail Crime Prevention Act."

(b) For purposes of this section, "stored value card" means any card, gift card, instrument, or device issued with or without fee for the use of the cardholder to obtain money, goods, services, or anything else of value. Stored value cards include, but are not limited to, debit cards issued for use as a stored value card or gift card, and an account identification number or symbol used to identify a stored value card. "Stored value card" does not include a prepaid card usable at multiple, unaffiliated merchants or at automated teller machines, or both.

(c) A person commits the offense of organized retail crime when the person:

(1) Acts in concert with one (1) or more individuals to commit theft of any merchandise with a value greater than one thousand dollars ($1,000) aggregated over a ninety-day period with the intent to:

(A) Sell, barter, or trade the merchandise for monetary or other gain; or

(B) Fraudulently return the merchandise to a retail merchant; or

(2) Receives, possesses, sells, or purchases, by physical or electronic means, any merchandise or stored value cards obtained from a fraudulent return with the knowledge that the property was obtained in violation of § 39-14-103 or § 39-14-146.

(d)(1) A violation of subsection (c) is punished as theft pursuant to § 39-14-105.

(2) A violation of subsection (c) is punished one (1) classification higher than provided in § 39-14-105 if the defendant exercised organizational, supervisory, financial, or management authority over the activity of one (1) or more other persons in furtherance of a violation of this section.

(e) Any interest in property acquired or maintained in violation of this section shall be subject to forfeiture as provided by chapter 11, part 7 of this

title.

(f)(1) Any sale or purchase of stored value cards by persons or merchants, other than the issuer or the issuer's authorized agent, including any transaction that occurs in this state or with a person in the state who transacts online, requires that the appropriate information contained in this subsection be recorded and a copy of the record shall be maintained for at least three (3) years. Regardless of the method by which the transaction is conducted, the merchant shall record the following information for each transaction:

(A) The time, date, and place of the transaction;

(B) A complete and accurate description of the stored value card sold or purchased, including, if available, the name of the original issuer, the face value of the stored value card when sold or purchased, the acquired price of the stored value card, and the stored value card serial number;

(C) Pin numbers shall be provided for specific individuals upon the request of law enforcement; and

(D) A signed statement or digital affirmation by the seller of the stored value card, if applicable, verifying that the seller is the rightful owner of the stored value card or is authorized to sell, consign, or trade the stored value card.

(2) If the transaction is completed in person or by any method other than in a kiosk or online, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A copy, digital swipe, or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or the person to whom stored value card was sold;

(C) A thumbprint of the person who sold the stored value card; and

(D) A description of the person who sold the stored value card including the person's full name, current residential address, phone number, height, weight, date of birth, or other identifying marks.

(3) If the transaction is completed at a kiosk, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A digital swipe or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or sold the stored value card; and

(C) A thumbprint of the person who sold the stored value card.

(4) If the transaction is completed online the record shall include:

(A) The information required by subdivision (f)(1);

(B) A verified email address;

(C) The IP address or digital device identification used to access the website or app of the seller;

(D) Data collected about the person who purchased the stored value card, or sold the stored value card, including name and mailing address used to remit payment; and

(E) A token identifier for a validated credit or debit card and billing zip code.

(5) Local law enforcement agencies shall notify merchants known to sell stored value cards of the recording and reporting requirements required by subdivisions (f)(1)-(4). The notification to merchants shall be in writing and

shall state the law enforcement agency's policy regarding how the information is to be reported in the applicable jurisdiction and certify that any data collected from the merchant will be stored in a secure and confidential manner. All records shall be delivered to the appropriate law enforcement agency or its designated reporting database in an electronic or other report format approved by that same agency within twenty-four (24) hours from the date of the transaction. The information shall be stored on a law enforcement owned, operated, and housed server. Any gift card database software should be free for state law enforcement agencies; state, county, and city government agencies; and for the merchants that are reporting.

(6)(A) A merchant commits a Class A misdemeanor who knowingly fails to follow the reporting and recording requirements pursuant to this subsection (f). However, for a merchant to be charged or convicted under this subsection (f), the law enforcement agency must have first notified the merchant in writing of the reporting obligations in that jurisdiction. If the violation is committed by the owner, stockholder, or managing partner of a business selling a stored value card, then the business license may be suspended or revoked at the discretion of the city or county clerk.

(B) Any person who knowingly provides false information in response to the reporting requirements of this section commits a Class A misdemeanor.

(C) Any fines derived from violations of this subsection (f) shall be earmarked for law enforcement purposes if the law enforcement entity shows proof of notification of reporting requirements signed by the person or agent of the entity in violation.

(7) Notwithstanding this section to the contrary, the comptroller of the treasury is authorized to request and receive from a law enforcement agency any data or information received by the law enforcement agency pursuant to this subsection (f).

(g) All information gathered pursuant to subsection (f) shall remain confidential. If a local law enforcement agency utilizes a third party, including, but not limited to, a third-party database or software company, to keep records or to analyze stored value card transactions, the third party must agree to keep all information confidential and only share the information with law enforcement agencies, the comptroller of the treasury, or the original issuer of the stored value card.

39-14-203. Cock and animal fighting — Cock fighting paraphernalia.

(a) It is unlawful for any person to:

(1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;

(2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;

(3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts;

(4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring;

(5) Knowingly cause a person under eighteen (18) years of age to attend an animal fight; or

(6) Possess, own, buy, sell, transfer, or manufacture cock fighting paraphernalia with the intent that the paraphernalia be used in promoting, facilitating, training for, or furthering cock fighting.

(b) It is the legislative intent that this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

(c)(1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony. Notwithstanding § 40-35-111, in addition to any other penalty imposed, the court shall prohibit the defendant from having custody of any companion animal, as defined in § 39-14-212(b), for a period of at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court shall prohibit any person convicted of a second or subsequent offense under this subdivision (c)(1) from having custody of any companion animal for the person's lifetime.

(2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.

(d)(1) A violation of subdivision (a)(4) or (a)(6) is a Class A misdemeanor.

(2) A violation of subdivision (a)(5) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), the fine for a violation of subdivision (a)(5) shall be not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500).

(e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal, as long as it does not violate any other part of this section or federal law.

(f)(1) For purposes of this section, "cock fighting paraphernalia" means gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

(2) In determining whether a particular object is cock fighting paraphernalia, the court or other authority making that determination may, in addition to all other logically relevant factors, consider the following:

(A) Statements by the owner or anyone in control of the object concerning its use;

(B) Prior convictions, if any, of the owner or of anyone in control of the object for violation of any state or federal law relating to cock fighting or any other violation of this part;

(C) The presence and condition of any animal on the same property;

(D) Instructions, oral or written, provided with the object concerning its use;

(E) Descriptive materials accompanying the object that explain or depict its use;

(F) The manner in which the object is displayed for sale;

(G) The existence and scope of legitimate uses for the object in the community; and

(H) Expert testimony concerning its use.

39-14-212. Aggravated cruelty to animals — Definitions — Construction — Penalty.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, the person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) "Aggravated cruelty" means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal, including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) "Companion animal" means any non-livestock animal as defined in § 39-14-201;

(3) "Elderly" means any person sixty-five (65) years of age or older; and

(4) "Minor" means any person under eighteen (18) years of age.

(c) Subsection (a) is not to be construed to prohibit or interfere with the following endeavors:

(1) Dispatching an animal in any manner absent of aggravated cruelty;

(2) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a);

(3) Dispatching rabid or diseased animals;

(4) Dispatching animals posing a clear and immediate threat to human safety;

(5) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(6) Performing accepted veterinary medical practices or treatments;

(7) Dispatching animals in accordance with § 44-17-403(e);

(8) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;

(9) Dispatching wild or abandoned animals on a farm or residential real property; or

(10) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court shall order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of the animals to the agency presenting the case. Notwithstanding § 40-35-111, the court shall prohibit the defendant from having custody of companion animals for at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court may also impose any other reasonable restrictions on the person's custody of other animals as is necessary for the protection of the animals. The court shall prohibit any person convicted of a second or subsequent offense under this section from having custody of any companion animal for the person's lifetime.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or

treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(*l*) This section is not to be construed to change, modify, or amend any provision of title 70, involving fish and wildlife.

(m) This section does not apply to activities or conduct that are prohibited by § 39-14-203.

(n) This section does not apply to equine animals or to animals defined as livestock by § 39-14-201.

39-14-214. Criminal offenses against animals.

(a) A person commits an offense who knowingly:

(1) Engages in any sexual activity with an animal;

(2) Causes, aids, or abets another person to engage in any sexual activity with an animal;

(3) Permits any sexual activity with an animal to be conducted on any premises under the person's charge or control;

(4) Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual activity with an animal for a commercial or recreational purpose; or

(5) Photographs or films, for purposes of sexual gratification, a person engaged in a sexual activity with an animal.

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

(c) In addition to the penalty imposed in subsection (b):

(1) The court may order that the convicted person do any of the following:

(A) Not harbor or own animals or reside in any household where animals are present;

(B) Participate in appropriate counseling at the defendant's expense; or

(C) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (a); and

(2) Notwithstanding § 40-35-111, the court shall prohibit the convicted person from having custody of any companion animal, as defined in § 39-14-212(b), for a period of at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court shall prohibit any person convicted of a second or subsequent offense under this section from having custody of any companion animal for the person's lifetime.

(d) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices.

(e) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(f) For purposes of this section:

(1) "Animal" has the same meaning as the term is defined in § 63-12-103;

(2) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image; and

(3) "Sexual activity" means physical sexual contact between the person and the animal.

39-14-301. Arson.

(a) A person commits an offense who knowingly damages any structure or farm equipment by means of a fire or explosion:

(1) Without the consent of all persons who have a possessory, proprietary or security interest therein; or

(2) With intent to destroy or damage any structure to collect insurance for the damage or destruction or for any unlawful purpose.

(b)(1) Arson is a Class C felony.

(2) Arson of a place of worship is a Class B felony.

(c) As used in this section:

(1) "Farm equipment" means any farm tractor as defined in § 55-1-104(a), farm implement designed to be operated with a farm tractor, and motorized farm machinery used in the commercial production of farm products or nursery stock; and

(2) "Place of worship" means any structure that is:

(A) Approved, or qualified to be approved, by the state board of equalization for property tax exemption pursuant to § 67-5-212, based on ownership and use of the structure by a religious institution; and

(B) Utilized on a regular basis by such religious institution as the site of congregational services, rites, or activities communally undertaken for the purpose of worship.

39-14-406. Aggravated criminal trespass.

(a) A person commits aggravated criminal trespass who enters or remains on property when:

(1) The person knows the person does not have the property owner's effective consent to do so; and

(2) The person intends, knows, or is reckless about whether such person's presence will cause fear for the safety of another;

(3) The person, in order to gain entry to the property, destroys, cuts, vandalizes, alters or removes a gate, signage, fencing, lock, chain or other barrier designed to keep trespassers from entering the property; or

(4) The person, while on the property, recklessly damages the property or personal property thereon.

(b) For purposes of this section, "enter" means intrusion of the entire body.

(c)(1) Aggravated criminal trespass is a Class B misdemeanor except as provided in subdivisions (c)(2) and (3).

(2) Aggravated criminal trespass that was committed in a habitation, in a building of any hospital, on state property, or on the campus, property, or facilities of any private or public school is a Class A misdemeanor.

(3) Aggravated criminal trespass is a Class E felony when committed:

(A) On residential property belonging to or occupied by a law enforcement officer, active duty member of the military, judge, or elected or appointed federal, state, or local official; and

(B) With intent to harass a person described in subdivision (c)(3)(A) due to the person's status as a law enforcement officer, active duty member of the military, judge, or elected or appointed federal, state, or local official.

(d)(1) A person also commits aggravated criminal trespass who enters or remains on the real property, including the right-of-way, of a railroad:

(A) With the intent to do harm to the property or to railroad property located on the property; or

(B) With the intent to do harm to another person or knowing that their presence will harm another person.

(2) Aggravated criminal trespass on railroad property is a Class A misdemeanor.

(e)(1) A person also commits aggravated criminal trespass who trespasses upon a construction site, or property used or owned by a public or private utility or an electric or telephone cooperative, with the intent to steal, deface, destroy, tamper with, alter or remove any equipment, supplies or other property found on the site or property.

(2)(A) In order for subdivision (e)(1) to apply, the construction, utility, or electric or telephone cooperative property must be posted by use of a sign of a size that is plainly visible to the average person at all gates or entrances to the property and shall contain language substantially similar to the following:

UNLAWFUL ENTRY ON THIS PROPERTY CONSTITUTES THE CRIMINAL OFFENSE OF AGGRAVATED CRIMINAL TRESPASS AND IS PUNISHABLE BY IMPRISONMENT FOR UP TO ONE YEAR AND A $2,500 FINE.

(B) If the proof shows that the defendant entered the posted property at some place other than a gate or entrance, it is not a defense to this subsection (e) that the defendant did not know that the property was posted against trespass.

(3) Aggravated criminal trespass on a construction site is a Class A misdemeanor.

39-14-408. Vandalism.

(a) For purposes of this section:

(1) "Damage" includes, but is not limited to:

(A) Destroying, polluting, or contaminating property;

(B) Tampering with property and causing pecuniary loss or substantial inconvenience to the owner or a third person;

(C) Intentionally spilling, pouring, or otherwise administering chemicals or other toxic substances to or on the merchandise with the intent to:

(i) Render the merchandise unusable or unsellable; or

(ii) Alter the merchandise from its original or intended form;

(D) Destroying, harming, or decreasing the value of merchandise offered for sale by a retail merchant in any other manner; or

(E) Intentionally marring, marking upon, or defacing, in a temporary or permanent manner, state or local government property or any entrance or curtilage to or fixture on the property, with the exception of temporary marking of sidewalks;

(2) "Merchandise" includes any goods, chattels, foodstuffs, or wares of any type of description, regardless of the value;

(3) "Polluting" means the contamination by man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the atmosphere, water, or soil to the material injury of the right of another. Pollutants include dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste;

(4) "Retail merchant" means any person primarily engaged in the business of making retail sales. For purposes of this subdivision (a)(4), "primarily" means that at least fifty percent (50%) of the taxable gross sales of the business are retail sales; and

(5) "Retail sale" or "sale at retail" means any sale other than a wholesale sale.

(b) A person commits the offense of vandalism who knowingly:

(1) Causes damage to or the destruction of any real or personal property of another or of the state, the United States, any county, city, or town knowing that the person does not have the owner's effective consent;

(2) Solicits, directs, aids, or attempts to aid another to commit vandalism of a retail merchant, while acting with the intent to promote or assist the commission of vandalism of a retail merchant, or to benefit in the proceeds or results of the offense;

(3) Damages merchandise offered for retail sale by a retail merchant; or

(4) Facilitates commission of vandalism of a retail merchant or acts as an accessory after the fact to vandalism of a retail merchant.

(c)(1)(A) A person violating subdivision (b)(1) or (b)(3) is a principal under § 39-11-401 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(B) In addition to any sentence imposed for a violation of subdivision (b)(1) or (b)(3), the court shall include an order of restitution for any property damage or loss or cleaning and restoration expenses incurred as a result of the offense.

(2) A person violating subdivision (b)(2) is a principal under § 39-11-402 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(3) A person violating subdivision (b)(4) by facilitating a felony act of vandalism committed under subdivision (b)(1) or (b)(3), shall be punished one (1) classification lower than the value of the act of vandalism committed under subdivision (b)(1) or (b)(3).

(4) A person violating subdivision (b)(4) as an accessory after the fact, under § 39-11-411, to a felony act of vandalism committed under subdivision (b)(1) or (b)(3) commits a Class E felony.

(5) Notwithstanding subdivision (c)(1)(A), a person violating subdivision (b)(1) by intentionally marring, marking upon, or defacing, in a temporary or permanent manner, state or local government property or any entrance or curtilage to or fixture on state or local government property, where the value determination under § 39-11-106 is less than two thousand five hundred dollars ($2,500), commits a Class A misdemeanor, unless the state or local government property is designated as a historic landmark or listed on the national register of historic places, in which case the violation shall be punished in accordance with subdivision (c)(1). In addition, a second or subsequent violation of subdivision (b)(1) with respect to state or local government property shall be punished by a mandatory fine of five thousand dollars ($5,000).

39-14-412. Mailbox tampering — Damage or defacement of government property.

(a) It is an offense for any person to knowingly damage, destroy, remove or otherwise tamper with a residential mailbox or other container such person knows or reasonably should know is used for the receipt or deposit of United States mail. Any person convicted of violating this subsection (a) shall be sentenced to not less than twenty-five (25) hours of public service work.

(b) It is an offense for any person to knowingly damage or deface real or personal property of the state, or a subdivision thereof, by the painting or other permanent application of graffiti directly onto the property.

(c)(1) A violation of subsection (a) is a Class B misdemeanor. All violations shall be punished by at least twenty-five (25) hours of community service work to be determined by the court.

(2) A violation of subsection (b) is a Class A misdemeanor. In any sentence imposed for a violation of subsection (b), the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

39-14-414. Equal Access to Public Property Act of 2012 — Protection of state property.

(a) This section shall be known and may be cited as the "Equal Access to Public Property Act of 2012."

(b) As used in this section, "camping" means:

(1) Any of the following at any time between ten o'clock p.m. (10:00 p.m.) and seven o'clock a.m. (7:00 a.m.):

(A) Erecting, placing, maintaining, leaving, allowing to remain, or using a piece of furniture, tent, raised tarp, or other temporary shelter, structure, or furniture;

(B) Placing or storing personal belongings for future use, including storing food for consumption; or

(C) Carrying on cooking activities, whether by fire or use of artificial means, such as a propane stove or other heat-producing portable cooking equipment;

(2) Sleeping or making preparations to sleep, including laying down a sleeping bag, blanket, or other material used for bedding;

(3) Making a fire or preparing to make a fire; or

(4) Doing any digging or earth breaking.

(c) An area of state-owned land may be designated as a camping area by the department, agency, official or officials responsible for the operation, protection or maintenance of the property in question. The area's designation as a camping area may be accomplished by means of signage, advertisement or other notice designed to make known its availability for the activity of camping.

(d)(1) It is an offense for a person to engage in camping on property owned by the state knowing that the area on which the camping occurs is not specifically designated for use as a camping area by the department or agency responsible for the land.

(2) The department, agency, official, or officials responsible for the operation, protection, or maintenance of the property may designate an area as a camping area by means of signage, advertisement, or other notice designed to make known its availability for camping. However, a person shall not be guilty of a violation of subdivision (d)(1) unless the person was notified by an official responsible for the protection of the property in question that camping is prohibited and continued to engage in camping or returned within twenty-four (24) hours of the warning and continued to engage in camping.

(3) A person is not guilty of a violation of subdivision (d)(1) if the person was given permission or authorization by the department, agency, or official responsible for the operation, protection, or maintenance of the property to engage in camping on the property.

(4) Any items used to commit a violation of this section, including items abandoned at the location of the offense, are subject to confiscation, seizure, and claiming in accordance with subsection (e).

(e) Any property subject to confiscation or seizure under subsection (d), unclaimed in connection with a violation of subsection (d), or left unattended after arrest or issuance of a citation for camping in violation of subsection (d), and taken into state custody shall be held by the state agency or its agent in a secure location for a period of ninety (90) days. Notice containing the contact information of the state agency or agent holding the property must be posted at the nearest reasonable location to the place from which the property was removed. If the property is not claimed within ninety (90) days of being taken into custody, the property is deemed abandoned and the agency or agent may dispose of the property, unless the property is needed for evidence in a criminal proceeding. If a person claiming any such property within ninety (90) days of the property being taken into custody produces identification and signs a release form providing the person's name and contact information and swearing under oath that the property belongs to the person, the state agency or agent shall return the property to the person, unless the property is needed for evidence in a criminal proceeding, in which case the property shall be returned following the conclusion of that proceeding. The state agency or agent may charge such persons a reasonable storage fee for storing the property. The state and its employees, agents, and contractors are immune from liability for

property confiscated in compliance with this subsection (e).

(f) A violation of this section is a Class E felony. In any sentence imposed for a violation of this section, the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

(g) Nothing in this section shall be construed as preempting or preventing a state department or agency with responsibility for state property from enacting or enforcing other lawful and reasonable rules, regulations, or statutes that concern the use of and access to state property. However, if any such rule, regulation or statute is in conflict with this section, it is the intent that this section shall prevail and the prohibition against camping on state property in areas not designated as camping areas be a uniform one.

39-15-214. Findings — Purpose.

(a) **Findings.** The general assembly finds:

(1) As the Supreme Court has stated in Planned Parenthood v. Casey, 505 U.S. 833, 852 (1992), "Abortion is a unique act" and is "fraught with consequences...for the woman who must live with the implications of her decision." As the Supreme Court stated in Gonzales v. Carhart, 550 U.S. 124, 159 (2007) "it seems unexceptionable to conclude some women come to regret their choice to abort the infant life they once created and sustained. Severe depression and loss of esteem can follow." The Supreme Court has acknowledged, in Casey at 882, that the effect of an abortion on the life of the unborn child is "relevant, if not dispositive" information for the patient's decision;

(2) Current standards of medical care mandate the performance of an ultrasound prior to the performance of inducing of an abortion. Determining accurate information regarding gestational development is important for purposes of informed consent, as well as making essential preparation for the procedure itself;

(3) In this state ultrasounds are regularly provided to women seeking an abortion to determine if they are eligible for a medication abortion, and to review other factors related that cannot be determined prior to an examination of the patient;

(4) In the forty-seven (47) years since the United States Supreme Court's ruling in Roe v. Wade, 410 U.S. 113 (1973), there have been substantial advances in scientific methods and medical technology that have significantly expanded knowledge and understanding of prenatal life and development, and the effects of abortion on the physical and psychological health of women;

(5) At conception, a new and genetically distinct human being is formed;

(6) The state has a legitimate, substantial, and compelling interest in protecting the rights of all human beings, including the fundamental and absolute right of unborn human beings to life, liberty, and all rights protected by the Fourteenth and Ninth Amendments to the United States Constitution;

(7) The presence of a fetal heartbeat is medically significant because the heartbeat is a discernible sign of life at every stage of human existence;

(8) An unborn child's heart begins to beat at five (5) weeks gestational age, and blood begins to flow during the sixth week;

(9) Depending on what type of equipment is utilized, an unborn child's heartbeat can be detected as early as six (6) to eight (8) weeks gestational

age;

(10) An unborn child's heartbeat can consistently be made audible using a handheld Doppler fetal heart rate device by twelve (12) weeks gestational age;

(11) A pregnancy can be confirmed through the detection of the unborn child's heartbeat;

(12) By the beginning of the second trimester, physicians view the absence of a fetal heartbeat as an instance of fetal death;

(13) It is standard medical practice to monitor an unborn child's heartbeat throughout pregnancy and labor to measure the heart rate and rhythm of the unborn child, which averages between one hundred ten (110) and one hundred sixty (160) beats per minute. This monitoring is used as an indicator of the health of the unborn child;

(14) Since the Supreme Court's decision in Roe v. Wade, medical professionals have expanded their understanding of life in utero to include, among other indicia, the presence of a heartbeat, brain development, a viable pregnancy or viable intrauterine pregnancy during the first trimester of pregnancy, and the ability to experience pain;

(15) The presence of a fetal heartbeat is the best indicator of a viable pregnancy. The detectability of a fetal heartbeat is a strong predictor of survivability to term, especially if the heartbeat is present at eight (8) weeks gestational age or later;

(16) When a fetal heartbeat is detected between eight (8) and twelve (12) weeks gestational age, the rate of miscarriage is extremely low, with approximately ninety eight percent (98%) of naturally conceived pregnancies carrying to term;

(17) At eight (8) weeks gestational age, an unborn child begins to show spontaneous movements, and reflexive responses to touch. The majority of an unborn child's body is responsive to touch by fourteen (14) weeks gestational age;

(18) Peripheral cutaneous sensory receptors, which are the receptors that feel pain, develop in an unborn child at around seven (7) to eight (8) weeks gestational age. Sensory receptors develop in the palmar regions during the tenth week of gestational age, growing throughout the unborn child's body by sixteen (16) weeks gestational age;

(19) An unborn child's nervous system is established by six (6) weeks gestational age. At this stage, the basic pattering of the early nervous system is in place and is the basis for tremendous growth and increased complexity built upon this basic pattern. The earliest neurons of the cortical brain, responsible for thinking, memory, and higher level functions, are established by the fourth week;

(20) Synapses are formed in the seventh week, and the neural connections for the most primitive responses to pain are in place by ten (10) weeks gestation;

(21) Substance P, a peptide functioning as a neurotransmitter in the transmission of pain, is present in the spinal cord of an unborn child at eight (8) weeks gesiational age, while enkephalin peptides, which serve as neurotransmitters in pain modulation, are present at twelve (12) to fourteen (14) weeks gestational age;

(22) There is significant evidence, based on peer-reviewed scientific studies, that unborn children are capable of experiencing pain by no later than

twenty (20) weeks gestational age. Pain receptor nerves are already present throughout the human body by twenty (20) weeks gestation, and the cortex, which begins development at eight (8) weeks, has a full complement of neurons at twenty (20) weeks;

(23) There is evidence that an unborn child is capable of feeling pain as early as twelve (12) to fifteen (15) weeks gestational age. The scientific evidence shows that significant cortical neuronal connections are in place by ten (10) to twelve (12) weeks gestation, and that connections between the spinal court and thalamus are nearly complete by twenty (20) weeks gestation:

(24) A growing body of medical evidence and literature supports the conclusion that an unborn child may feel pain from around eleven (11) to twelve (12) weeks gestational age, or even as early as five and a half (5½) weeks. At only eight (8) weeks gestation, an unborn child exhibits reflexive movement during invasive procedures resulting from spinal reflex neuro pathways, showing that the unborn child reacts to noxious stimuli with avoidance reactions and stress responses. By sixteen (16) weeks gestational age, pain transmission from a peripheral receptor to the cortex is possible. Significant evidence also shows hormonal stress responses by unborn children as early as eighteen (18) weeks;

(25) Mothers considering abortion express concern over the medical information on fetal neurological development and an unborn child's ability to feel pain while in utero, and providing this information to mothers who are considering abortion is an important part of empowering mothers to make a fully-informed choice on whether or not to seek an abortion;

(26) Medical evidence shows that younger infants are hypersensitive to pain. Neuronal mechanisms that inhibit or moderate pain sensations do not begin to develop until thirty-four (34) to thirty-six (86) weeks gestation and are not complete until a significant time after birth. Newborn and preterm infants are hyperresponsive to pain compared to adults or older infants;

(27) The recognition of fetal pain has led to improvements and changes in how physicians approach fetal surgery and fetal anesthesia. The presence of neural connections and the ability to feel pain as early as the fifteenth week now necessitate treating the unborn child as a separate patient from the mother for purposes of utilizing direct analgesia to fetal patients, who clearly elicit stress responses to pain;

(28) Fetal surgeons at specialized units in St. Louis, Nashville, Cincinnati, Kansas City, Boston, and elsewhere, in response to their recognition of fetal pain, routinely use anesthesia and analgesia for unborn and premature infants undergoing surgery as young as eighteen (18) weeks gestation;

(29) The leading textbook on clinical anesthesia recognizes the significant body of evidence indicating the importance of mitigating fetal stress responses to pain stimuli. It is presumed that an unborn child's ability to fully experience pain occurs between twenty (20) and thirty (30) weeks, and that the fetal experience of pain may be even greater than that of term neonate or young children due to the immaturity of neurodevelopment that helps inhibit pain;

(30) Mothers considering abortion express concern over the medical information on fetal neurological development and an unborn child's ability to feel pain while in utero;

(31) The infliction of unnecessary pain upon a living being is generally prohibited by state and federal law. The legislature has prohibited the unnecessary infliction of pain on living beings in a variety of circumstances in an effort to protect the innocent from harm;

(32) The life of an unborn child is recognized and protected from violence by federal law and by the laws of most states. The killing of an unborn child is considered homicide in thirty-eight (38) states, with at least twenty-eight (28) of those states criminalizing the act from conception. Nearly every state and the District of Columbia have wrongful death statutes that allow for liability and recovery for the death of an unborn child or subsequent death of an infant who is born and later dies because of injuries caused while in utero;

(33) The United States Supreme Court created the viability standard for evaluating abortion-related laws and regulations in Roe v. Wade, 410 U.S. 113 (1973), and reaffirmed this approach in Planned Parenthood v. Casey, 505 U.S. 833 (1992);

(34) At the time Roe v. Wade was decided, the court recognized that viability was not likely until approximately twenty-eight (28) weeks gestational age;

(35) Since the Supreme Court's decisions in Roe v. Wade and Planned Parenthood v. Casey, advances in science, technology, and treatment methods have resulted in children surviving and thriving at younger preterm ages than ever before;

(36) In recent years, scientific advances and advances in neonatal care of lowered the gestational limits of survivability well into the second trimester;

(37) The age at which a preterm infant can survive has decreased from twenty-eight (28) weeks to less than twenty-two (22) weeks. Survival of preterm infants has increased significantly over time assuming physicians provide active care for the young infants, lowering the age of survival from twenty-eight (28) weeks to twenty-four (24) weeks. Moreover, infants born as early as twenty-two (22) weeks can survive with the provision of care and treatment. The youngest preterm infant to survive was born at only twenty-one (21) weeks and four (4) days;

(38) In 1978, the first infants weighing less than seven hundred fifty (750) grams were successfully ventilated;

(39) By the 1990s, survival of infants born weighing between five hundred (500) and seven hundred (700) grams, roughly between twenty-four (24) to twenty-six (26) weeks, became possible;

(40) Technological developments in the 1980s and 1990s, such as improved tracheal instillation of surfactant for respiratory distress syndrome and antenatal corticosteroids, resulted in survival of infants born between twenty-three (23) to twenty-four (24) weeks;

(41) In recent years, resuscitation and survival of infants born weighing less than four hundred (400) grams, or approximately twenty-two (22) to twenty-three (23) weeks gestational age, has further decreased the age of viability;

(42) The provision of active prenatal and postnatal care has significantly increased the number of prematurely born children who survive until hospital discharge;

(43) Abortions performed at any gestational age pose a risk to the mother. Abortion increases the risks of subsequent preterm birth and placenta previa, life-threatening hemorrhage, postpartum hemorrhage, and cesarean

delivery;

(44) Abortions performed later in pregnancy pose an even higher medical risk to the health and life of women, with the relative risk increasing exponentially at later gestational ages after eight (8) weeks gestational age;

(45) The relative risk of death for pregnant women who had an abortion performed or induced upon her at eleven (11) to twelve (12) weeks gestational age is between three (3) and four (4) times higher than an abortion at eight (8) weeks gestational age or earlier;

(46) The relative risk of death for pregnant women who had an abortion performed or induced upon her at thirteen (13) to fifteen (15) weeks gestational age is almost fifteen (15) times higher than an abortion at eight (8) weeks gestational age or earlier;

(47) The relative risk of death for pregnant women who had an abortion performed or induced upon her at sixteen (16) to twenty (20) weeks gestational age is almost thirty (30) times higher than an abortion at eight (8) weeks gestational age or earlier;

(48) The relative risk of death for pregnant women who had an abortion performed or induced upon her at twenty-one (21) weeks gestational age or later is more than seventy-five (75) times higher than an abortion at eight (8) weeks gestational age or earlier;

(49) Women who have an abortion suffer from post-traumatic stress disorder at a rate slightly higher than veterans of the Vietnam war. Women who have an abortion have an eighty one percent (81%) increased risk of mental trauma after an abortion. Abortion has been shown to correlate with many other mental health disorders as well;

(50) The United States is one of only seven (7) countries in the world that permits elective abortion past twenty (20) weeks:

(51) Only seventeen (17) countries permit abortion without any restriction beyond week twelve (12) weeks gestational age;

(52) The United States is an outlier within the international community related to the regulation of abortion. Of the countries that permit elective abortion, nine (9) limit elective abortion before the twelfth week of gestation, thirty-six (36) limit elective abortion at twelve (12) weeks gestation, six (6) limit elective abortion between twelve (12) and twenty (20) weeks gestation, and only seven (7) permit elective abortion past twenty (20) weeks or have no gestational limit;

(53) The historical development of abortion is undeniably tied to bias and discrimination by some organizations, leaders, and policies towards impoverished and minority communities, including the imposition of forced sterilization of the intellectually disabled, poor, minority, and immigrant women. These historic policies should be rejected and left on the ash heap of history;

(54) As Justice Clarence Thomas wrote in his opinion concurring in the denial of certiorari in Box v. Planned Parenthood of Indiana and Kentucky, Inc., 139 S. Ct. 1780, 1783 (2019), "the use of abortion to achieve eugenic goals is not merely hypothetical." This historical practice of abortion was rooted not in equality but in discrimination based on age, sex, and disability;

(55) In the early twentieth century, the eugenics movement had grown popular across elite institutions in the United States, with many distinguishing between so-called fit and unfit individuals along racial lines and expressing concern over the increased birth-rate among non-white popula-

tions. Such abhorrent distinctions were also made between able-bodied persons and persons eugenicists referred to as "feeble-minded," "deformed," "diseased," blind, deaf, or "dependent," a term used to included orphans and the poor. Laws were adopted prohibiting marriages between the disabled and other "unfit" individuals and requiring their sterilization. More than sixty thousand (60,000) people were involuntarily sterilized between 1907 and 1983;

(56) Planned Parenthood founder Margaret Sanger argued in the early twentieth century that birth control would open the way to the eugenicist. Sanger argued that birth control could be used to reduce the "ever increasing, unceasingly spawning class of human beings who never should have been born at all;

(57) This argument was later adopted by abortion advocates, such as Planned Parenthood President Alan Guttmacher, who endorsed abortion for eugenic purposes. Guttmacher argued in the 1950's that abortion should be used to prevent the birth of disabled children. Legal scholar Glanville Williams, whose book was cited in the majority opinion in Roe v. Wade, argued in a book published in the 1950's that a "eugenic killing by a mother …cannot confidently be pronounced immoral;

(58) Some continue to support the goal of reducing undesirable populations through selective reproduction;

(59) Today, the individualized nature of abortion creates a significant risk that prenatal screening tests and new technologies will be used to eliminate children with unwanted characteristics;

(60) There is substantial evidence from across the globe and in the United States that the elimination of children with unwanted characteristics is already occurring. The abortion rate for children diagnosed with Down syndrome in utero approaches one hundred percent (100%) in Iceland, ninety eight percent (98%) in Denmark, ninety percent (90%) in the United Kingdom, and seventy seven percent (77%) in France. Even in the United States, the abortion rate for children with Down Syndrome is sixty seven percent (67%). Widespread sex-selective abortions in Asia have led to as many as one hundred sixty (160) million "missing" women. In India, as a result of the abortion of 300,000-700,000 female unborn children each year over several decades, there are currently about fifty (50) million more men than women in the country. Recent evidence also suggests that sex-selective abortions of girls are common among certain populations in the United States;

(61) Sex-selective abortion results in an unnatural sex ratio imbalance that can impede members of the numerically predominant sex from finding partners, encourage the commoditization of humans in the form of human trafficking, and create other societal harms. Sex-selective abortion also reinforces discriminatory and sexist stereotypes toward women by devaluing and dehumanizing females;

(62) In this state, from 2008 through 2017, the rate of abortion per one thousand (1,000) women was nearly four (4) times higher for nonwhite women than white women, with a rate of 7.6 on average for all women, 4.6 for white women, and 16.0 for nonwhite women. The ratio of abortions to one thousand (1,000) live births in this state from 2008-2017 was nearly three (3) times higher for nonwhite women than white women, with an average of 138.2 for all women, 85.1 for white women, and 294.4 for nonwhite women;

(63) The use of abortion as a means to prefer one (1) sex over another or to discriminate based on disability or race is antithetical to the core values equality, freedom, and human dignity enshrined in both the United States and Tennessee Constitutions. The elimination of bias and discrimination against pregnant women, their partners, and their family members, including unborn children, is a fundamental obligation of government in order to guarantee those who are, according to the Declaration of Independence, "endowed by their Creator with certain unalienable Rights" can enjoy "Life, Liberty, and the pursuit of Happiness";

(64) This state has historically protected its interest in preserving the integrity of the medical profession by enacting a comprehensive statutory framework for ensuring the integrity of the medical profession in title 63;

(65) The general assembly first adopted an act creating the Board of Medical Examiners in 1901, with the mission to protect the health, safety, and welfare of the people of this state and to ensure the highest degree of professional conduct;

(66) As the Supreme Court of the United States acknowledged in Gonzales v. Carhart, 550 U.S. 124, 157 (2007) (citing Washington v. Glucksberg, 521 U.S. 702, 731 (1997)), "the government has an interest in protecting the integrity and ethics of the medical profession." Under U.S. Supreme Court precedents, it is clear the State has a significant role to play in regulating the medical profession;

(67) Physician involvement in medical practices that cause fetal pain has been rejected by the international community;

(68) Physician involvement in medical practices that facilitate discrimination is antithetical to the United States and Tennessee constitutions' affirmation of equal protection under the law;

(69) The integrity and public respect of the medical profession are significantly harmed by physician involvement in practices that have been rejected by the international community, facilitate discrimination, or otherwise create a disdain for life;

(70) This state has a legitimate, substantial, and compelling interest in valuing and protecting unborn children;

(71) This state has a legitimate, substantial, and compelling interest in protecting the physical and mental health of the mother;

(72) This state has a legitimate, substantial, and compelling interest in promoting human dignity;

(73) This state has a legitimate, substantial, and compelling interest in encouraging childbirth over abortion;

(74) This state has a legitimate, substantial, and compelling interest in safeguarding an unborn child from the serious harm of pain by an abortion method that would cause the unborn child to experience pain;

(75) This state has a legitimate, substantial, and compelling interest in resolving untenable inconsistencies and incongruities in state law which permits some unborn children to be killed by abortion, while requiring that unborn children be protected and valued in non-abortion circumstances including, but not limited to, criminal provisions related to the infliction of harms against persons, state programs intended to aid prenatal healthcare, and state sponsored healthcare for unborn children;

(76) This state has a legitimate, substantial, and compelling interest in protecting the integrity and ethics of the medical profession, including by

prohibiting medical practices that might cause the medical profession to become insensitive, even disdainful, to life, including the life of the unborn child; and

(77) This state has a legitimate, substantial, and compelling interest in preventing discrimination.

(b) **Purpose.**

(1) The purpose of this section is to provide legislative intent and reasoning underlying the enactment of laws to protect maternal health, and to preserve, promote, and protect life and potential life throughout pregnancy, including, but not limited to, §§ 39-15-215 — 39-15-217.

(2) The unique nature of abortion and its potential physical and mental health risks, as well as the ultimate result of the death of an unborn child, necessitates that this state ensure every woman considering an abortion is provided with adequate comprehensive information before deciding to obtain an abortion. The mandatory provision of an ultrasound prior to the abortion substantially furthers this compelling state interest.

(3) The presence of a fetal heartbeat is a medically significant indicator of life and the potential successful development of an unborn child. This state's legitimate, substantial, and compelling interest in protecting unborn children warrants the restriction of abortion in cases where the heartbeat is detectable.

(4) The unnecessary infliction of pain upon the life of an unborn child is inconsistent with Tennessee law that would otherwise protect the life and health of an unborn child, undermines the integrity of and public trust in the medical profession, and conflicts with the this state's legitimate, substantial, and compelling interest in protecting the life of an unborn child, protecting the integrity of the medical profession, resolving the conflict in state laws intended to protect the health of the unborn child, and protecting the life, physical health, and mental health of women. Therefore, it is necessary to enact protections against the infliction of pain, and death, upon an unborn child who is capable of experiencing pain.

(5) Advances in science and medical practice have decreased the gestational age of an unborn child's viability to survive. This state's legitimate, substantial, and compelling interest in protecting the life of an unborn child, protecting the integrity of the medical profession, resolving the conflict in state laws intended to protect the health of the unborn child, and protecting the life, physical health, and mental health of women require the enactment of a series of gestational age restrictions on the provision of an abortion.

(6) The historical use of abortion as a means to discriminatory ends is fundamentally objectionable and conflicts with this state's legitimate, substantial, and compelling interest in preventing discrimination and discriminatory practices. Therefore, it is necessary for this state to enact protections that prevent sex, racial, and disability discrimination against unborn children.

(7) Life begins at conception, and nothing in this act shall be interpreted or construed to suggest that it is the intent or purpose of the legislature to condone abortion of an unborn child at any time after conception. The legislature specifically acknowledges the provisions of § 39-15-213 that will prohibit all abortion effective on the thirtieth day after issuance of a judgment overruling, in whole or in part, Roe v. Wade, as modified by Planned Parenthood v. Casey, or adoption of an amendment to the Constitution, restoring state authority to prohibit abortion.

39-15-215. Section definitions — Physician requirements prior to pregnant woman giving informed consent to have abortion — Obstetric ultrasound — Affirmative defense of medical emergency — Violations — Report to board of medical examiners — Severability — Intent.

(a) As used in this section:

(1) "Abortion" has the same meaning as defined in § 39-15-211;

(2) "Auscultate" means to examine by listening for sounds made by internal organs of the fetus, including a fetal heartbeat, in accordance with standard medical practice utilizing current medical technology and methodology;

(3) "Gestational age" or "gestation" has the same meaning as defined in § 39-15-211;

(4) "Medical emergency" has the same meaning as defined in § 39-15-211; provided, that a medical emergency does not include a claim or diagnosis related to the woman's mental health or a claim or diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible impairment of a major bodily function;

(5) "Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor a developing fetus; and

(6) "Ultrasound technician" means a person at least eighteen (18) years of age who:

(A) Has earned a technical certificate from a sonography program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or Canadian Medical Association (CMA);

(B) Is currently certified by the American Registry for Diagnostic Medical Sonography (ARDMS) in the specialty in which the person is currently practicing;

(C) Is currently certified by the American Registry of Radiologic Technologists (ARRT) in sonography;

(D) Is in the process of applying for registration with the ARDMS, provided that the applicant satisfies the requirements for registration within ninety (90) days of becoming employed as a sonographer; or

(E) Is in the process of applying for registration with the ARRT, provided that the applicant satisfies the requirements for registration within ninety (90) days of becoming employed as a sonographer.

(b) Prior to a pregnant woman giving informed consent to having an abortion, as required by § 39-15-202, the physician who is performing or inducing, or attempting to perform or induce, an abortion, shall:

(1) Determine the gestational age of the unborn child in accordance with generally accepted standards of medical practice;

(2) Inform the pregnant woman the gestational age of the unborn child;

(3) Perform an obstetric ultrasound in accordance with generally accepted standards of medical practice using current medical technology and methodology applicable to the gestational age of the unborn child and reasonably calculated to determine whether a fetal heartbeat exists;

(4) Auscultate the fetal heartbeat of the unborn child, if any, so that the pregnant woman may hear the heartbeat if the heartbeat is audible;

(5) Provide a simultaneous explanation of what the ultrasound is depicting, which must include the presence and location of the unborn child within

the uterus, the dimensions of the unborn child, the presence of external members and internal organs if present and viewable, the number of unborn children depicted, and, if the ultrasound image indicates that fetal demise has occurred, inform the woman of that fact;

(6) Display the ultrasound images so that the pregnant woman may view the images;

(7) Record in the pregnant woman's medical record the presence or absence of a fetal heartbeat, the method used to test for the fetal heartbeat, the date and time of the test, and the estimated gestational age of the unborn child; and

(8) Obtain from the pregnant woman prior to performing or inducing, or attempting to perform or induce, an abortion, a signed certification that the pregnant woman was presented with the information required to be provided under this subsection (b), that the pregnant woman viewed the ultrasound images or declined to do so, and that the pregnant woman listened to the heartbeat if the heartbeat was audible or declined to do so. The signed certification must be in addition to any other documentation requirements under this part and must be on a form prescribed by the commissioner of health and be retained in the woman's medical record.

(c)(1) The physician who is to perform or induce, or attempt to perform or induce, an abortion may delegate the responsibility to perform the obstetric ultrasound to an ultrasound technician, provided that the ultrasound technician is qualified and permitted by law to perform an obstetric ultrasound that complies with the requirements of subsection (b). An ultrasound technician performing an obstetric ultrasound under this subdivision (c)(1) shall perform the obstetric ultrasound in a manner that complies with subsection (b), and the physician may rely on the signed certification obtained by the qualified technician under subdivision (b)(8) to establish that an ultrasound was performed in compliance with this section, unless the physician knows, or in the exercise of reasonable care should know, that an ultrasound was not performed in accordance with this section.

(2) The physician who is to perform or induce, or attempt to perform or induce, an abortion may accept a certification from a referring physician that the referring physician has performed an obstetric ultrasound that complies with the requirements of subsection (b). The referring physician performing an obstetric ultrasound under this subdivision (c)(2) shall perform the obstetric ultrasound in a manner that complies with subsection (b), and the physician may rely on the signed certification obtained by the referring physician under subdivision (b)(8) to establish that an ultrasound was performed in compliance with this section, unless the physician knows, or in the exercise of reasonable care should know, that an ultrasound was not performed in accordance with this section.

(d) When the ultrasound images and heartbeat sounds are provided to and reviewed with the pregnant woman, this section shall not be construed to prevent the pregnant woman from averting her eyes from the ultrasound images or requesting the volume of the heartbeat be reduced or turned off if the heartbeat is audible. The physician or ultrasound technician performing the ultrasound shall be permitted to comply with the request of the pregnant woman. The physician, the ultrasound technician, and the pregnant woman shall not be subject to any penalty if the pregnant woman refuses to look at the displayed ultrasound images or to listen to the heartbeat if the heartbeat is

audible.

(e)(1) Subject to compliance with subdivision (e)(2), it is an affirmative defense to criminal prosecution for a violation of a provision of this section that, in the physician's reasonable medical judgment, a medical emergency prevented compliance with the provision.

(2) In order for the affirmative defense in subdivision (e)(1) to apply, a physician who performs or induces, or attempts to perform or induce, an abortion because of a medical emergency must comply with each of the following conditions unless the medical emergency also prevents compliance with the condition:

(A) The physician who performs or induces, or attempts to perform or induce, the abortion certifies in writing that, in the physician's good faith, reasonable medical judgment, based upon the facts known to the physician at the time, compliance with the provision was prevented by a medical emergency;

(B) The physician certifies in writing the available methods or techniques considered and the reasons for choosing the method or technique employed;

(C) If the unborn child is presumed to be viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician performs or induces, or attempts to perform or induce, the abortion in a hospital. The hospital must have appropriate neonatal services for premature infants unless there is no hospital within thirty (30) miles with neonatal services and the physician who intends to perform or induce the abortion has admitting privileges at the hospital where the abortion is to be performed or induced;

(D) If the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician determines, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, that the termination of the pregnancy in that manner poses a significantly greater risk of the death of the pregnant woman or a significantly greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion; and

(E) If the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced, or attempted to be performed or induced, at least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.

(f) Performing or inducing, or attempting to perform or induce, an abortion in violation of the requirements of this section is a Class C felony.

(g) A violation of subsection (c) by an ultrasound technician or referring physician whose performance of an ultrasound pursuant to subsection (c) is relied upon by a physician in performing or inducing, or attempting to perform

or induce, an abortion is a Class E felony.

(h) A pregnant woman upon whom an abortion is performed or induced, or attempted to be performed or induced, in violation of this section is not guilty of violating this section or attempting to commit or conspiring to commit a violation of this section.

(i) When a physician is criminally charged with a violation of this section, the physician shall report the charge to the board of medical examiners in writing within seven (7) calendar days of acquiring knowledge of the charge. The report must include the jurisdiction in which the charge is pending, if known, and must also be accompanied by a copy of the charging documents, if available. A district attorney general shall promptly notify the board of medical examiners when a physician is charged with a violation of this section.

(j) If any provision or provisions of this section or the application thereof to any person, circumstance, or period of gestational age is found to be unenforceable, unconstitutional, or invalid by a court of competent jurisdiction, the same is hereby declared to be severable and the remainder of the section shall remain effective. The general assembly hereby declares that it would have enacted this section and each of its provisions, even if any provision of this section or the application thereof to any person, circumstance, or period of gestational age is later found to be unenforceable, unconstitutional, or invalid.

(k)(1) It is the specific intent of the general assembly in this section to exercise to the greatest extent permitted by law the legitimate, substantial, and compelling state interest in protecting maternal health, and in preserving, promoting, and protecting life and potential life throughout pregnancy by enacting more protective requirements than provided for under this part as it existed prior to July 13, 2020.

(2) When this section is in direct conflict with this part as it existed prior to July 13, 2020, the more protective requirements of this section control over any less protective provision in this part. This section shall not be construed as a repeal, either express or implied, of any provision of this part as it existed prior to July 13, 2020.

(3) The general assembly specifically intends that this part as it existed prior to July 13, 2020, shall remain and be enforceable if, and for so long as, any provisions of this section, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

(4) This section does not repeal or modify in any way § 39-15-213, as enacted by chapter 351 of the Public Acts of 2019, which shall control upon becoming effective. This section shall remain and be enforceable if, and for so long as, any provisions of § 39-15-213, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

39-15-216. Section definitions — Determination of gestational age — Fetal heartbeat — Unlawful abortions due to fetal heartbeat or gestational age — Affirmative defense of medical emergency — Report to board of medical examiners — Severability — Intent.

(a) As used in this section:

(1) "Abortion" has the same meaning as defined in § 39-15-211;

(2) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the heart of an unborn child;

(3) "Gestational age" or "gestation" has the same meaning as defined in § 39-15-211;

(4) "Medical emergency" has the same meaning as defined in § 39-15-211; provided, that a medical emergency does not include a claim or diagnosis related to the woman's mental health or a claim or diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible impairment of a major bodily function;

(5) "Unborn child" has the same meaning as defined in § 39-15-211; and

(6) "Viable" has the same meaning as defined in § 39-15-211.

(b)(1) Before performing or inducing, or attempting to perform or induce, an abortion, the physician shall determine the gestational age of the unborn child in accordance with generally accepted standards of medical practice.

(2) A violation of subdivision (b)(1) is a Class C felony.

(c)(1) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child has a fetal heartbeat. A violation of this subdivision (c)(1) is a Class C felony.

(2) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is six (6) weeks gestational age or older unless, prior to performing or inducing the abortion, or attempting to perform or induce the abortion, the physician affirmatively determines and records in the pregnant woman's medical record that, in the physician's good faith medical judgment, the unborn child does not have a fetal heartbeat at the time of the abortion. In making the good faith medical determination, the physician shall utilize generally accepted standards of medical practice using current medical technology and methodology applicable to the gestational age of the unborn child and reasonably calculated to determine the existence or non-existence of a fetal heartbeat. A violation of this subdivision (c)(2) is a Class C felony.

(3) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is eight (8) weeks gestational age or older. A violation of this subdivision (c)(3) is a Class C felony.

(4) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is ten (10) weeks gestational age or older. A violation of this subdivision (c)(4) is a Class C felony.

(5) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twelve (12) weeks gestational age or older. A violation of this subdivision (c)(5) is a Class C felony.

(6) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is fifteen (15) weeks gestational age or older. A violation of this subdivision (c)(6) is a Class C felony.

(7) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is eighteen (18) weeks gestational age or order. A violation of this subdivision (c)(7) is a Class C felony.

(8) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twenty (20) weeks gestational age or older. A violation of this subdivision (c)(8) is a Class

C felony.

(9) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twenty-one (21) weeks gestational age or older. A violation of this subdivision (c)(9) is a Class C felony.

(10) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twenty-two (22) weeks gestational age or older. A violation of this subdivision (c)(10) is a Class C felony.

(11) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twenty-three (23) weeks gestational age or older. A violation of this subdivision (c)(11) is a Class C felony.

(12) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child is twenty-four (24) weeks gestational age or older. A violation of this subdivision (c)(12) is a Class C felony.

(d)(1) A person shall not be convicted of violating more than one (1) subdivision of subsection (c) for any one (1) abortion that the person performed, induced, or attempted to perform or induce.

(2) This section does not permit the abortion of a viable unborn child.

(e)(1) Subject to compliance with subdivision (e)(2), it is an affirmative defense to criminal prosecution for a violation of a provision of this section that, in the physician's reasonable medical judgment, a medical emergency prevented compliance with the provision.

(2) In order for the affirmative defense in subdivision (e)(1) to apply, a physician who performs or induces, or attempts to perform or induce, an abortion because of a medical emergency must comply with each of the following conditions unless the medical emergency also prevents compliance with the condition:

(A) The physician who performs or induces, or attempts to perform or induce, the abortion certifies in writing that, in the physician's good faith, reasonable medical judgment, based upon the facts known to the physician at the time, compliance with the provision was prevented by a medical emergency;

(B) The physician certifies in writing the available methods or techniques considered and the reasons for choosing the method or technique employed;

(C) If the unborn child is presumed to be viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician performs or induces, or attempts to perform or induce, the abortion in a hospital. The hospital must have appropriate neonatal services for premature infants unless there is no hospital within thirty (30) miles with neonatal services and the physician who intends to perform or induce the abortion has admitting privileges at the hospital where the abortion is to be performed or induced;

(D) If the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician deter-

mines, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, that the termination of the pregnancy in that manner poses a significantly greater risk of the death of the pregnant woman or a significantly greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion; and

(E) lf the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced, or attempted to be performed or induced, at least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.

(f) A pregnant woman upon whom an abortion is performed or induced, or attempted to be performed or induced, in violation of any provision of this section is not guilty of violating, or of attempting to commit or conspiring to commit a violation of, this section.

(g) When a physician is criminally charged with a violation of this section, the physician shall report the charge to the board of medical examiners in writing within seven (7) calendar days of acquiring knowledge of the charge. The report must include the jurisdiction in which the charge is pending, if known, and must also be accompanied by a copy of the charging documents, if available. A district attorney general shall promptly notify the board of medical examiners when a physician is charged with a violation of this section.

(h) If any provision or provisions of this section or the application thereof to any person, circumstance, or period of gestational age is found to be unenforceable, unconstitutional, or invalid by a court of competent jurisdiction, the same is hereby declared to be severable and the remainder of the section shall remain effective. The general assembly hereby declares that it would have enacted this section and each of its provisions, even if any provision of this section or the application thereof to any person, circumstance, or period of gestational age was later found to be unenforceable, unconstitutional, or invalid.

(i)(1) It is the specific intent of the general assembly in this section to exercise to the greatest extent permitted by law the legitimate, substantial, and compelling state interest in protecting maternal health, and in preserving, promoting, and protecting life and potential life throughout pregnancy by enacting more protective requirements than provided for under this part as it existed prior to July 13, 2020.

(2) When this section is in direct conflict with this part as it existed prior to July 13, 2020, the more protective requirements of this section control over any less protective provision of this part. This section shall not be construed as a repeal, either express or implied, of any provision of this part as it existed prior to July 13, 2020.

(3) The general assembly specifically intends that this part as it existed prior to July 13, 2020, shall remain and be enforceable if, and for so long as, any provisions of this section, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

(4) This section does not repeal or modify in any way § 39-15-213, as enacted by chapter 351 of the Public Acts of 2019, which shall control upon

becoming effective. This section shall remain and be enforceable if, and for so long as, any provisions of § 39-15-213, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

39-15-217. Section definitions — Unlawful abortions due to sex, race, or indication of Down syndrome — Affirmative defense of medical emergency — Violations — Report to board of medical examiners — Severability — Intent.

(a) As used in this section:

(1) "Abortion" has the same meaning as defined in § 39-15-211;

(2) "Down syndrome" means a chromosome disorder associated either with an extra chromosome twenty-one or an effective trisomy for chromosome twenty-one;

(3) "Medical emergency" has the same meaning as defined in § 39-15-211; provided, that it does not include a claim or diagnosis related to the woman's mental health or a claim or diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible impairment of a major bodily function; and

(4) "Unborn child" has the same meaning as defined in § 39-15-211.

(b) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman if the person knows that the woman is seeking the abortion because of the sex of the unborn child.

(c) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman if the person knows that the woman is seeking the abortion because of the race of the unborn child.

(d) A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman if the person knows that the woman is seeking the abortion because of a prenatal diagnosis, test, or screening indicating Down syndrome or the potential for Down syndrome in the unborn child.

(e)(1) Subject to compliance with subdivision (e)(2), it is an affirmative defense to criminal prosecution for a violation of a provision of this section that, in the physician's reasonable medical judgment, a medical emergency prevented compliance with the provision.

(2) In order for the affirmative defense in subdivision (e)(1) to apply, a physician who performs or induces, or attempts to perform or induce, an abortion because of a medical emergency must comply with each of the following conditions unless the medical emergency also prevents compliance with the condition:

(A) The physician who performs or induces, or attempts to perform or induce, the abortion certifies in writing that, in the physician's good faith, reasonable medical judgment, based upon the facts known to the physician at the time, compliance with the provision was prevented by a medical emergency;

(B) The physician certifies in writing the available methods or techniques considered and the reasons for choosing the method or technique employed;

(C) If the unborn child is presumed to be viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician performs or induces, or attempts to perform or induce, the abortion in a hospital. The

hospital must have appropriate neonatal services for premature infants unless there is no hospital within thirty (30) miles with neonatal services and the physician who intends to perform or induce the abortion has admitting privileges at the hospital where the abortion is to be performed or induced;

(D) If the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician determines, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, that the termination of the pregnancy in that manner poses a significantly greater risk of the death of the pregnant woman or a significantly greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion; and

(E) If the unborn child is presumed viable under § 39-15-211 or determined to be viable under § 39-15-212, the physician who performs or induces, or attempts to perform or induce, the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced, or attempted to be performed or induced, at least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.

(f) A violation of subsections (b)-(d) is a Class C felony.

(g) A pregnant woman upon whom an abortion is performed or induced, or attempted to be performed or induced, in violation of subsections (b)-(d), is not guilty of violating the subsections, or of attempting to commit or conspiring to commit a violation of the subsections.

(h) When a physician is criminally charged with a violation of this section, the physician shall report the charge to the board of medical examiners in writing within seven (7) calendar days of acquiring knowledge of the charge. The report must include the jurisdiction in which the charge is pending, if known, and must also be accompanied by a copy of the charging documents, if available. A district attorney general shall promptly notify the board of medical examiners when a physician is charged with a violation of this section.

(i) If any provision of this section or the application thereof to any person, circumstance, or period of gestational age is found to be unenforceable, unconstitutional, or invalid by a court of competent jurisdiction, the same is hereby declared to be severable and the remainder of this section shall remain effective. The general assembly hereby declares that it would have enacted this section and each of its provisions, even if any provision of this section or the application thereof to any person, circumstance, or period of gestational age was later found to be unenforceable, unconstitutional, or invalid.

(j)(1) It is the specific intent of the general assembly in this section to exercise to the greatest extent permitted by law the legitimate, substantial, and compelling state interest in protecting maternal health, and in preserving, promoting, and protecting life and potential life throughout pregnancy by enacting more protective requirements than provided for under this part as it existed prior to July 13, 2020.

(2) When this section is in direct conflict with this part as it existed prior to July 13, 2020, the more protective requirements of this section control over any less protective provision in this part. This section shall not be construed as a repeal, either express or implied, of any provision of this part as it existed prior to July 13, 2020.

(3) The general assembly specifically intends that this part as it existed prior to July 13, 2020, shall remain and be enforceable if, and for so long as, any provisions of this section, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

(4) This section does not repeal or modify in any way § 39-15-213, as enacted by chapter 351 of the Public Acts of 2019, which shall control upon becoming effective. This section shall remain and be enforceable if, and for so long as, any provisions of § 39-15-213, or any part or parts thereof, are enjoined or otherwise barred by a court of competent jurisdiction.

39-15-218. Section definitions — Posting of sign about chemical abortion — Required warning about chemical abortion — Required statement in medical discharge instructions — Required information prior to abortion due to medical emergency — Department of Health materials and website — Violations — Civil penalty — Civil action for damages — Attorney's fees — Ruling on woman's anonymity.

(a) Notwithstanding any provision of law to the contrary, for purposes of this section:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or other substance or device to intentionally:

(A) Kill the unborn child of a woman known to be pregnant; or

(B) Terminate the pregnancy of a woman known to be pregnant, with an intention other than:

(i) After viability, to produce a live birth and preserve the life and health of the child born alive; or

(ii) To remove a dead unborn child;

(2) "Chemical abortion" means the use or prescription of an abortion-inducing drug dispensed with intent to cause the death of the unborn child;

(3) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition is a medical emergency if based on a claim or diagnosis that the woman will engage in conduct that the woman intends to result in the death or in substantial and irreversible physical impairment of a major bodily function of the woman; and

(4) "Stable internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the department of health.

(b) This section applies to a private office, ambulatory surgical treatment center, as defined in § 68-11-201, or other facility, as defined in § 68-11-201, or clinic, if more than fifty (50) elective abortions were provided in the private

office, ambulatory surgical treatment center, facility, or clinic, other than abortions necessary to prevent the death of the pregnant woman, during the previous calendar year. Each private office, ambulatory surgical treatment center, facility, or clinic shall conspicuously post a sign in a location described in subsection (d) in a manner clearly visible to patients, which reads as follows:

Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately.

(c) The sign required pursuant to subsection (b) must be printed with lettering that is legible and at least three-quarters of an inch (0.75″) boldfaced type.

(d) A private office or an ambulatory surgical treatment center shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed. A hospital or any other facility that is not a private office or ambulatory surgical treatment center shall post the required sign in each patient admission area used by patients on whom abortions are performed.

(e) Except in the case of a medical emergency, a chemical abortion involving the two-drug process of dispensing mifepristone first and then misoprostol shall not be performed or induced or attempted to be performed or induced unless the woman is informed by the physician who is to perform the abortion at least forty-eight (48) hours before the abortion, that:

(1) It may be possible to reverse the intended effects of a chemical abortion utilizing mifepristone if the woman changes her mind, but that time is of the essence; and

(2) Information on and assistance with reversing the effects of a chemical abortion utilizing mifepristone is available on the department of health website.

(f) After the first drug involved in the two-drug process is dispensed in a chemical abortion utilizing mifepristone, the physician or an agent of the physician shall provide written medical discharge instructions to the pregnant woman, which must include the following statement:

Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately.

(g) When a medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's professional medical judgment that an abortion is necessary to prevent the woman's death or that a delay of forty-eight (48) hours will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(h) Within ninety (90) days after October 1, 2020, the department of health shall publish, in English and in each language that is the primary language of two percent (2%) or more of this state's population, and make available on the department's website as provided in subsection (i), the printed materials required by this subsection (h) in a manner that ensures that the information

is easily understood by the general public. The materials must be designed to inform the woman of the possibility of reversing the effects of a chemical abortion utilizing mifepristone if the woman changes her mind and information on and assistance with the resources that may be available to help reverse the effects of a chemical abortion.

(i) The department of health shall develop and maintain a stable internet website to provide the information described in subsection (h). The department shall not collect or retain any information regarding website visitors or users. The department shall monitor the website on a daily basis to prevent and correct tampering. The website must be maintained at a minimum resolution of seventy (70) dots per inch. All pictures appearing on the website must be a minimum of two hundred (200) by three hundred (300) pixels. All letters on the website must be a minimum of twelve-point font. All information and pictures must be accessible with an industry standard browser, requiring no additional plugins.

(j) Any person who knowingly or recklessly performs or induces or attempts to perform or induce an abortion in violation of this section commits a Class E felony. No penalty may be assessed against the woman upon whom the abortion is performed or induced or attempted to be performed or induced. No penalty or civil liability may be assessed for failure to comply with subdivision (e)(2) unless the department of health has made the information available on the website at the time the physician is required to inform the woman.

(k) The department of health shall assess any private office, ambulatory surgical treatment center, or other facility or clinic that negligently fails to post a sign required by subsection (b) a civil penalty of ten thousand dollars ($10,000). Each day on which an abortion, other than in the case of a medical emergency, is performed in any private office, ambulatory surgical treatment center, or other facility or clinic during which the required sign is not posted is a separate violation.

(*l*) Any person upon whom an abortion has been performed that was not in compliance with this section, the father of the unborn child who was the subject of the abortion, or if the woman was younger than eighteen (18) years of age at the time of the chemical abortion or has died as a result of the chemical abortion, the grandparent of the unborn child may bring an action against the person who performed the abortion in knowing or reckless violation of this act for actual and punitive damages. Any person, upon whom an abortion that was in violation of this section has been attempted, may bring an action against the person who attempted to perform the abortion in knowing or reckless violation of this act for actual and punitive damages. A court shall not award damages to a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(m) If judgment is rendered in favor of the plaintiff in any action brought pursuant to this section, then the court shall also award the plaintiff reasonable attorney's fees. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, then the court shall award the defendant reasonable attorney's fees.

(n) In each civil or criminal proceeding brought under this section, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted must be preserved from public disclosure if the woman does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the woman's

anonymity must be preserved, shall issue orders to the parties, witnesses, and counsel and direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. The order must be accompanied by specific written findings explaining why the anonymity of the woman must be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone who brings an action under subsection (*l*) shall do so under a pseudonym. This section must not be construed to conceal the identity of the plaintiff or witnesses from the defendant.

(o) This section does not affect a provider's legal obligations pursuant to § 39-15-202.

39-15-407. Definitions for §§ 39-15-407 — 39-15-413. [Effective until January 1, 2021. See version effective on January 1, 2021.]

As used in §§ 39-15-407 — 39-15-413:

(1) "Disseminate" means to sell, offer to sell, give or otherwise transfer;

(2) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(3) "Minor" means any person under eighteen (18) years of age or, in the case of alcoholic beverages, any person under twenty-one (21) years of age;

(4) "Purchase" means to buy, attempt to buy, or offer to buy;

(5) "Smoking material" means tobacco or hemp that is offered for sale to the public with the intention that it is consumed by smoking; and

(6) "Smoking paraphernalia" means a cigarette holder, cigarette papers, smoking pipe, water pipe or other item that is designated primarily to hold smoking material while the smoking material is being smoked.

39-15-407. Definitions for §§ 39-15-407 — 39-15-413. [Effective on January 1, 2021. See version effective until January 1, 2021.]

As used in §§ 39-15-407 — 39-15-413:

(1) "Disseminate" means to sell, offer to sell, give or otherwise transfer;

(2) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(3) "Minor" means any person under eighteen (18) years of age or, in the case of alcoholic beverages or smoking material, any person under twenty-one (21) years of age;

(4) "Purchase" means to buy, attempt to buy, or offer to buy;

(5) "Smoking material" means tobacco or hemp that is offered for sale to the public with the intention that it is consumed by smoking, as well as any noncombustible product containing nicotine or any other substance intended for use in a vapor product as defined in § 39-17-1503; and

(6) "Smoking paraphernalia" means a cigarette holder, cigarette papers, smoking pipe, water pipe, vapor product as defined in § 39-17-1503, or other item that is designated primarily to hold smoking material while the smoking material is being smoked.

39-15-409. Acquisition of smoking paraphernalia by minor prohibited. [Effective until January 1, 2021. See version effective on January 1, 2021.]

A minor shall not, directly or indirectly, purchase or acquire smoking paraphernalia. Any minor purchasing or acquiring smoking paraphernalia is subject to juvenile proceedings.

39-15-409. Acquisition of smoking paraphernalia by minor prohibited. [Effective on January 1, 2021. See version effective until January 1, 2021.]

A minor shall not, directly or indirectly, purchase or acquire smoking paraphernalia. Any minor purchasing or acquiring smoking paraphernalia is subject to juvenile proceedings; provided, that a violation of this section by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

39-15-410. Identification containing proof of age. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) A person contemplating the dissemination of smoking paraphernalia to an individual whom the person believes or has reason to believe may be a minor shall demand identification containing proof of age from the individual. Failure to do so is a Class C misdemeanor.

(b) A minor who presents identification pursuant to subsection (a) other than the minor's own, or that does not contain the individual's correct age or date of birth, is subject to juvenile court proceedings.

39-15-410. Identification containing proof of age. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) A person contemplating the dissemination of smoking paraphernalia to an individual whom the person believes or has reason to believe may be a minor shall demand identification containing proof of age from the individual. Failure to do so is a Class C misdemeanor.

(b) A minor who presents identification pursuant to subsection (a) other than the minor's own, or that does not contain the individual's correct age or date of birth, is subject to juvenile court proceedings; provided, that a violation of this subsection (b) by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

39-15-413. Law enforcement efforts. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a)(1) It is not a violation of §§ 39-15-404, 39-15-410, 39-17-401 — 39-17-427, 39-17-602, 39-17-603, 39-17-901 — 39-17-908, 39-17-911, 39-17-914,

39-17-918, 39-17-1003 — 39-17-1005, 39-17-1501 — 39-17-1508, or any other offense providing a prohibition for use of or sales to a minor, for a law enforcement officer to use or send a minor, or in the case of alcohol a person under twenty-one (21) years of age, to purchase smoking material, smoking paraphernalia, any smokeless tobacco product, alcohol, illegal drugs, state lottery ticket or share, or any other prohibited material for the purpose of aiding in the enforcement of laws prohibiting sales to or use of minors so long as the law enforcement officer has obtained the prior written approval of the minor's parent or legal guardian. The consent of the minor's parent or legal guardian shall not be required where the person is eighteen (18) years of age or older.

(2) It is not a violation of § 39-15-404, § 39-15-410, or §§ 39-17-1501 — 39-17-1508, or any other statute prohibiting the use, possession or sales of alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia to a minor or a person under twenty-one (21) years of age, for a merchant in the business of selling alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia, to use or send a minor, or in the case of alcohol or beer, a person under twenty-one (21) years of age, to purchase any such product for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by individuals under age from occurring.

(b) Prior to using a minor to perform illegal or delinquent acts for the purposes of aiding in the enforcement of the laws of this state as permitted by this section, the law enforcement officer or merchant shall obtain the written approval of the minor's parent or legal guardian; provided, however, that the consent of the minor's parent or legal guardian shall not be required if the person used to make any such purchase is eighteen (18) years of age or older.

(c) In order to use a minor, or in the case of alcohol or beer, a person under twenty-one (21) years of age, for any of the purposes permitted by this section, the requirements of this subsection (c) shall apply.

(1) The minor or person under twenty-one (21) years of age shall not:

(A) Purposely disguise the person's appearance so as to misrepresent the person's actual age; and

(B) Make statements designed to trick, mislead, encourage or confuse the employee.

(2) The minor or person under twenty-one (21) years of age shall:

(A) Be photographed, both before and after the law enforcement or merchant-initiated use of the person, for the purpose of creating a record of the person's appearance during the time of the permitted use of the person;

(B) Except only for those questions relating to the person's employment or purpose for engaging in the conduct, respond truthfully to all questions posed by the location employee, including, but not limited to, inquiries concerning the person's age; and

(C) If identification is demanded by the location employee, produce only a valid state-issued card, which indicates the person's actual date of birth.

(d) No prosecution for the violation of any statute prohibiting the sale of beer for off-premises consumption to a person under twenty-one (21) years of age shall be commenced, if the prosecution is based upon the use of a person under twenty-one (21) years of age, as authorized by this section, unless the

person or the law enforcement officer supervising the person obtains the name of the permit holder and the employee of the permit holder from whom the beer was purchased or attempted to be purchased. All "stings" shall be conducted in accordance to state law in order to be valid. In addition, within ten (10) days of the date the action occurred, the law enforcement officer shall notify the permit holder in writing, either by mail or hand delivery, indicating:

(1) That an action recently occurred in which a person under twenty-one (21) years of age was used to purchase or attempt to purchase beer for off-premises consumption;

(2) The date and location of the action;

(3) The name of the permit holder and the employee from whom the beer was purchased or attempted to be purchased; and

(4) Whether the person was successful in making the purchase.

39-15-413. Law enforcement efforts. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a)(1) It is not a violation of §§ 39-15-404, 39-15-410, 39-17-401 — 39-17-427, 39-17-602, 39-17-603, 39-17-901 — 39-17-908, 39-17-911, 39-17-914, 39-17-918, 39-17-1003 — 39-17-1005, 39-17-1501 — 39-17-1508, or any other offense providing a prohibition for use of or sales to a minor or person under twenty-one (21) years of age, for a law enforcement officer to use or send a person under twenty-one (21) years of age to purchase smoking material, smoking paraphernalia, any smokeless tobacco product, alcohol, or illegal drugs, or to send a minor to purchase a state lottery ticket or share or any other prohibited material, for the purpose of aiding in the enforcement of laws prohibiting sales to or use of minors or persons under twenty-one (21) years of age so long as the law enforcement officer has obtained the prior written approval of the minor's parent or legal guardian or the person under twenty-one (21) years of age if that person is not a minor.

(2) ***It is not a violation of § 39-15-404, § 39-15-410, or §§ 39-17-1501 — 39-17-1508, or any other statute prohibiting the use, possession or sales of alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia to a minor or a person under twenty-one (21) years of age, for a merchant in the business of selling alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia, to use or send a minor, or in the case of alcohol, beer, tobacco products, smokeless tobacco, or smoking material or paraphernalia, a person under twenty-one (21) years of age, to purchase any such product for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by individuals under age from occurring.***

(b) Prior to using a minor to perform illegal or delinquent acts for the purposes of aiding in the enforcement of the laws of this state as permitted by this section, the law enforcement officer or merchant shall obtain the written approval of the minor's parent or legal guardian; provided, however, that the consent of the minor's parent or legal guardian shall not be required if the person used to make any such purchase is eighteen (18) years of age or older.

(c) In order to use a minor, or in the case of alcohol, beer, tobacco products,

smokeless tobacco, or smoking material or paraphernalia, a person under twenty-one (21) years of age, for any of the purposes permitted by this section, the requirements of this subsection (c) shall apply.

(1) The minor or person under twenty-one (21) years of age shall not:

(A) Purposely disguise the person's appearance so as to misrepresent the person's actual age; and

(B) Make statements designed to trick, mislead, encourage or confuse the employee.

(2) The minor or person under twenty-one (21) years of age shall:

(A) Be photographed, both before and after the law enforcement or merchant-initiated use of the person, for the purpose of creating a record of the person's appearance during the time of the permitted use of the person;

(B) Except only for those questions relating to the person's employment or purpose for engaging in the conduct, respond truthfully to all questions posed by the location employee, including, but not limited to, inquiries concerning the person's age; and

(C) If identification is demanded by the location employee, produce only a valid state-issued card, which indicates the person's actual date of birth.

(d) No prosecution for the violation of any statute prohibiting the sale of beer for off-premises consumption to a person under twenty-one (21) years of age shall be commenced, if the prosecution is based upon the use of a person under twenty-one (21) years of age, as authorized by this section, unless the person or the law enforcement officer supervising the person obtains the name of the permit holder and the employee of the permit holder from whom the beer was purchased or attempted to be purchased. All "stings" shall be conducted in accordance to state law in order to be valid. In addition, within ten (10) days of the date the action occurred, the law enforcement officer shall notify the permit holder in writing, either by mail or hand delivery, indicating:

(1) That an action recently occurred in which a person under twenty-one (21) years of age was used to purchase or attempt to purchase beer for off-premises consumption;

(2) The date and location of the action;

(3) The name of the permit holder and the employee from whom the beer was purchased or attempted to be purchased; and

(4) Whether the person was successful in making the purchase.

39-16-515. Pointing a laser at a law enforcement officer or emergency personnel.

(a) It is an offense for a person to knowingly activate and point a laser pointer or other device utilizing a laser beam at an individual known to be a law enforcement officer, firefighter, emergency medical technician or other emergency service personnel while the individual is in the performance of the individual's official duties, with the intent to place the individual in fear of serious bodily injury or death.

(b) In order for subsection (a) to apply:

(1) The law enforcement officer, firefighter, emergency medical technician, or other emergency service personnel must actually be placed in fear of serious bodily injury or death;

(2) The fear must be real or honestly believed to be real at the time; and

(3) Based upon the facts and circumstances surrounding the defendant's

conduct, the fear must be founded upon reasonable grounds.

(c) It is an offense for a person to knowingly shine or aim a light, laser, horn, or other mechanism towards the head of a law enforcement officer, firefighter, emergency medical technician, or other emergency service personnel while the individual is in the performance of the individual's official duties with intent to cause bodily injury.

(d)(1) A violation of subsection (a) is a Class A misdemeanor.

(2) A violation of subsection (c) is a Class A misdemeanor, and includes a mandatory fine of five thousand dollars ($5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant shall not be eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.

39-16-516. Traffic offense citation quotas — Performance standards.

(a) A public official or public employee shall not establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline a law enforcement officer solely by the issuance of a predetermined or specified number of any type or combination of types of traffic citations.

(b) A public official or public employee shall not require or suggest to a law enforcement officer that the law enforcement officer is required or expected to issue a predetermined or specified number of any type or combination of types of traffic citations within a specified period.

(c) Nothing in this section prohibits a municipal corporation, a political subdivision, or any agency of this state from establishing performance standards for law enforcement officers that include issuance of traffic citations but do not require issuance of a predetermined or specified number or any type or combination of types of citations as the sole means of meeting the performance standards.

(d) A violation of this section is a Class B misdemeanor, subject to fine only.

(e) As used in this section:

(1) "Public employee" means any person holding a position by appointment or employment in the service of a public employer;

(2) "Public employer" means:

(A) The state of Tennessee; or

(B) A county, city, town, municipality, or any other political subdivision of the state;

(3) "Public official" means a person elected to any office or entity of state or local government; and

(4) "Traffic offense" means an offense under title 55.

39-16-603. Evading arrest.

(a)(1) Except as provided in subsection (b), it is unlawful for any person to intentionally conceal themselves or flee by any means of locomotion from anyone the person knows to be a law enforcement officer if the person:

(A) Knows the officer is attempting to arrest the person; or

(B) Has been arrested.

(2) It is a defense to prosecution under this subsection (a) that the attempted arrest was unlawful.

(3) A violation of subsection (a) is a Class A misdemeanor.

(b)(1) It is unlawful for any person, while operating a motor vehicle on any street, road, alley or highway in this state, to intentionally flee or attempt to elude any law enforcement officer, after having received any signal from the officer to bring the vehicle to a stop.

(2) It is a defense to prosecution under this subsection (b) that the attempted arrest was unlawful.

(3)(A) Except as provided in subdivision (b)(3)(B), a violation of this subsection (b) is a Class E felony and shall be punished by confinement for not less than thirty (30) days.

(B) If the flight or attempt to elude creates a risk of death or injury to innocent bystanders, pursuing law enforcement officers, or other third parties, a violation of this subsection (b) is a Class D felony and shall be punished by confinement for not less than sixty (60) days.

(4) In addition to the penalty prescribed in this subsection (b), the court shall order the suspension of the driver license of the person for a period of not less than six (6) months nor more than two (2) years. If the license is already suspended, at the time the order is issued, the suspension shall begin on the date the existing suspension ends. The court shall also confiscate the license being suspended and forward it to the department of safety along with a report of the license suspension. If the court is unable to take physical possession of the license, the court shall nevertheless forward the report to the department. The report shall include the complete name, address, birth date, eye color, sex, and driver license number, if known, of the person whose license has been suspended, and shall indicate the first and last day of the suspension period. If the person is the holder of a license from another state, the court shall not confiscate the license but shall notify the department, which shall notify the appropriate licensing officials in the other state. The court shall, however, suspend the person's nonresident driving privileges for the appropriate length of time.

(c) In addition to the penalties prescribed in this section, the court shall order a person who commits evading arrest and, in doing so, recklessly damages government property, including, but not limited to, a law enforcement officer's uniform or motor vehicle, to pay restitution to the appropriate government agency for the value of any property damaged.

39-17-301. Part definitions.

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

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the person knows or should know will outrage the sensibilities of an ordinary individual likely to observe or discover the person's action;

(2) "Participates" includes:

(A) Joining a group of three (3) or more persons who riot;

(B) Aiding and abetting a riot; or

(C) Refusing any lawful order of correctional personnel or other law enforcement officers during the course of a riot;

(3) "Riot" means a disturbance in a public place or penal institution as defined in § 39-16-601 involving an assemblage of three (3) or more persons whether or not participating in any otherwise lawful activity, which, by tumultuous and violent conduct, creates grave danger of substantial damage to property or serious bodily injury to persons or substantially obstructs law

enforcement or other governmental function; and

(4) "Transportation facility" means any conveyance or place used for or in connection with public passenger transportation by air, railroad, motor vehicle or any other method. It includes, but is not limited to, aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations.

39-17-302. Riot.

(a) A person commits an offense who knowingly participates in a riot.

(b) A violation of this section is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of thirty (30) days of incarceration and an order of restitution for any property damage or loss incurred as a result of the offense.

39-17-303. Aggravated riot.

(a) A person commits an offense who:

(1) Knowingly participates in a riot; and

(2) As a result of the riot a person other than one (1) of the participants suffers bodily injury or substantial property damage occurs.

(b) A violation of this section is a Class E felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of forty-five (45) days of incarceration. In any sentence imposed for a violation of this section, the court shall include an order of restitution for any injury, property damage, or loss incurred as a result of the offense.

39-17-304. Inciting to riot.

(a) A person commits an offense who incites or urges three (3) or more persons to create or engage in a riot.

(b) A violation of this section is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

39-17-306. Disrupting meeting or procession.

(a) A person commits an offense if, with the intent to prevent or disrupt a lawful meeting, procession, or gathering, the person substantially obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

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

39-17-307. Obstructing highway or other passageway.

(a) A person commits an offense who, without legal privilege, intentionally, knowingly or recklessly:

(1) Obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, or hallway to which the public, or a substantial portion of the public, has access; or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from the person's acts alone or from the person's acts and the acts of others; or

(2) Disobeys a reasonable request or order to move issued by a person known to be a law enforcement officer, a firefighter, or a person with

authority to control the use of the premises to:

(A) Prevent obstruction of a highway or passageway; or

(B) Maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(b) For purposes of this section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or potentially injurious to persons or property.

(c)(1) A violation of subdivision (a)(1) is a Class A misdemeanor.

(2) A violation of subdivision (a)(2) is a Class C misdemeanor.

(3) Notwithstanding subdivision (c)(1), a violation of subdivision (a)(1) is a Class E felony if the obstruction prevents an emergency vehicle from accessing a highway or street, the obstruction prevents a first responder from responding to an emergency, or if the obstruction prevents access to an emergency exit. For purposes of this subdivision (c)(3):

(A) "Emergency vehicle" means any vehicle of a governmental department or public service corporation when responding to an emergency, any vehicle of a police or fire department, and any ambulance;

(B) "Emergency exit" means a doorway in a building or facility used for egress to the outdoors only when there is an immediate threat to the health or safety of an individual; and

(C) "First responder" has the same definition as used in § 39-13-116(d).

(d)(1) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that:

(A) Solicitation and collection of charitable donations at a highway or street intersection were undertaken by members of an organization that has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3) or (4);

(B) The members of the organization undertook reasonable and prudent precautions to prevent both disruption of traffic flow and injury to person or property; and

(C) The solicitation and collection at the specific time and place and the specific precautions were proposed in advance to, and received the prior written approval of, the administrative head of the local law enforcement agency in whose jurisdiction the intersection is located.

(2) No liability for any accident or other occurrence that arises from solicitations shall attach to the sheriff or government involved in issuing the permit, but shall be borne solely by the organization obtaining the permit.

(3) This subsection (d) shall not be construed to supersede or affect any ordinance relative to collecting donations at public intersections in effect on July 1, 1993.

(4) Any municipality by ordinance may prohibit roadblocks within its corporate limits notwithstanding this subsection (d).

39-17-432. Drug-Free School Zone — Enhanced criminal penalties for violations within zone.

(a) It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced sentences authorized by this section for drug offenses occurring in a drug-free zone are

necessary to serve as a deterrent to such unacceptable conduct.

(b)(1) A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

(A) On the grounds or facilities of any school; or

(B) Within five hundred feet (500′) of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

(2) In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) may also be subject to the following:

(A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars ($10,000);

(B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars ($20,000);

(C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars ($40,000);

(D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars ($60,000); and

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars ($100,000).

(3) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) but may be subject to the additional fines imposed by this section.

(c)(1) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) may be required to serve at least the minimum sentence for the defendant's appropriate range of sentence.

(2) There is a rebuttable presumption that a defendant is not required to serve at least the minimum sentence for the defendant's appropriate range of sentence. The rebuttable presumption is overcome if the court finds that the defendant's conduct exposed vulnerable persons to the distractions and dangers that are incident to the occurrence of illegal drug activity.

(3) If the defendant is required to serve at least the minimum sentence for the defendant's appropriate range of sentence, any sentence reduction credits the defendant may be eligible for or earn must not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

(d) Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(e) Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's

appropriate range of sentence.

(f) This section does not prohibit the judge from sentencing a defendant, who violated subsection (b) and is required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-14-417(k), may be enhanced under both subsection (b) and § 39-17-417(k) for each act. The state may seek enhancement of the defendant's sentence under subsection (b), § 39-17-417(k), or both, and shall provide notice of the election pursuant to § 40-35-202.

39-17-1306. Carrying weapons during judicial proceedings.

(a) No person shall intentionally, knowingly, or recklessly carry on or about the person while inside any building in which judicial proceedings are in progress any weapon prohibited by § 39-17-1302(a), for the purpose of going armed; provided, that if the weapon carried is a firearm, the person is in violation of this section regardless of whether the weapon is carried for the purpose of going armed.

(b) Any person violating subsection (a) commits a Class E felony.

(c) Subsection (a) shall not apply to any person who:

(1) Is in the actual discharge of official duties as a law enforcement officer, or is employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard in the line of duty and pursuant to military regulations, or is in the actual discharge of official duties as a guard employed by a penal institution, or as a bailiff, marshal or other court officer who has responsibility for protecting persons or property or providing security;

(2) Has been directed by a court to bring the firearm for purposes of providing evidence;

(3) Is in the actual discharge of official duties as a judge, and:

(A) Is authorized to carry a handgun pursuant to § 39-17-1351;

(B) Keeps the handgun concealed at all times when in the discharge of such duties; and

(C) Is vested with judicial powers under § 16-1-101;

(4) Is in the actual discharge of official duties as an elected official of any county or municipality, and:

(A) Is authorized to carry a handgun pursuant to § 39-17-1351; and

(B) Is not in the room in which judicial proceedings are in progress; or

(5) Is in the actual discharge of official duties as the county attorney of any county in this state, and:

(A) Is authorized to carry a handgun pursuant to § 39-17-1351; and

(B) Is not in the room in which judicial proceedings are in progress.

39-17-1350. Law enforcement officers permitted to carry firearms — Exceptions — Restrictions — Identification card for corrections officers.

(a) Notwithstanding any law to the contrary, any law enforcement officer may carry firearms at all times and in all places within Tennessee, on-duty or off-duty, regardless of the officer's regular duty hours or assignments, except as provided by subsection (c), federal law, lawful orders of court or the written

directives of the executive supervisor of the employing agency.

(b) The authority conferred by this section is expressly intended to and shall supersede restrictions placed upon law enforcement officers' authority to carry firearms by other sections within this part.

(c) The authority conferred by this section shall not extend to a law enforcement officer:

(1) Who is not engaged in the actual discharge of official duties as a law enforcement officer and carries a firearm onto school grounds or inside a school building during regular school hours unless the officer immediately informs the principal that the officer will be present on school grounds or inside the school building and in possession of a firearm. If the principal is unavailable, the notice may be given to an appropriate administrative staff person in the principal's office;

(2) Who is consuming beer or an alcoholic beverage or who is under the influence of beer, an alcoholic beverage, or a controlled substance or controlled substance analogue; or

(3) Who is not engaged in the actual discharge of official duties as a law enforcement officer while attending a judicial proceeding.

(d)(1) For purposes of this section, "law enforcement officer" means a person who is a full-time employee of the state in a position authorized by the laws of this state to carry a firearm and to make arrests for violations of some or all of the laws of this state, or a full-time police officer who has been certified by the peace officer standards and training commission, or a commissioned reserve deputy sheriff as authorized in writing by the sheriff, or a commissioned reserve or auxiliary police officer as authorized in writing by the chief of police, or a sheriff who has been certified by the peace officer standards and training commission, or a deputy sheriff employed by a county as a court officer or corrections officer as authorized in writing by the sheriff.

(2) For purposes of this section, "law enforcement officer" also means an inmate relations coordinator who is employed by the department of correction and has completed the probationary period established for an inmate relations coordinator, a correctional officer who is employed by the department of correction and has completed the probationary period established for a correctional officer, a person employed by the department of correction as a warden, deputy warden, associate warden, correctional administrator, assistant or deputy commissioner, or commissioner who has successfully completed any probationary period if required for those positions and who has successfully completed firearms training in accordance with department of correction standards, which standards shall include, at a minimum, forty (40) hours initial training and eight (8) hours annual in-service training in firearms qualification administered by an instructor with certification from the Tennessee Correction Academy's firearms instructor program or from a police firearms instructor training program conducted or sanctioned by the federal bureau of investigation or the National Rifle Association.

(3) For purposes of this section, "law enforcement officer" also means a duly elected and sworn constable in a county where constables retain law enforcement powers and duties under § 8-10-108; provided, that the constable receives, at a minimum, forty (40) hours initial training, within one (1) year of election, and eight (8) hours annual in-service training in firearms qualification administered by a certified law enforcement firearms instructor.

(4)(A) For purposes of this section, "law enforcement officer" also means a person who has successfully completed firearms training in accordance with POST certification, which shall include, at a minimum, forty (40) hours initial training and eight (8) hours annual in-service training in firearms qualification administered by a POST-certified firearms training program and is:

(i) An elected district attorney general;

(ii) A full-time assistant district attorney general who has been authorized pursuant to subdivision (d)(4)(B);

(iii) The executive director or deputy director of the district attorneys general conference; or

(iv) A full-time, pro-tem prosecutor employed by the district attorneys general conference.

(B) Each elected district attorney general, at such district attorney general's discretion, is authorized to determine if any assistant district attorney general in the district attorney general's office or judicial district is authorized to carry a firearm pursuant to this section.

(C) The district attorneys general conference shall develop a uniform identification system clearly identifying that a person described in subdivision (d)(4)(A) is qualified under this section to carry a firearm at all times. Persons authorized by this subdivision (d)(4) to carry a firearm under this section shall carry this identification at all times the person is carrying a firearm.

(e) In counties having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475) or not less than one hundred eighteen thousand four hundred (118,400) nor more than one hundred eighteen thousand seven hundred (118,700), according to the 1990 federal census or any subsequent federal census, the authority conferred by this section shall only apply to law enforcement officers who are law enforcement officers for those counties or law enforcement officers for municipalities located therein.

(f)(1) The secretary of state shall, in consultation with the commissioner of correction, design and issue to each requesting inmate relations coordinator or correctional officer who is employed by the department of correction and has completed the probationary period established for an inmate relations coordinator or correctional officer, a state identification card certifying that the inmate relations coordinator or correctional officer is authorized to carry a firearm pursuant to this section.

(2) Any inmate relations coordinator or correctional officer desiring an identification card shall notify the secretary of state and shall provide the inmate relations coordinator's or correctional officer's full name and residential address. Upon receipt of the request, the secretary of state shall notify the commissioner of correction of the request. The commissioner of correction shall verify to the secretary of state whether the requesting inmate relations coordinator or correctional officer is employed by the department of correction and has completed the appropriate probationary period and shall so certify in a letter to be maintained by the secretary.

(3) If the secretary of state receives certification that a requesting inmate relations coordinator or correctional officer is employed by the department and has completed the appropriate probationary period, the secretary shall issue the inmate relations coordinator or correctional officer an identification

card so certifying. The card shall be valid for as long as the inmate relations coordinator or correctional officer remains in the employment of the department of correction.

(4) An inmate relations coordinator or correctional officer issued a card pursuant to this subsection (f) shall carry the card at all times the inmate relations coordinator or correctional officer is carrying a firearm. The card shall be sufficient proof that the inmate relations coordinator or correctional officer is authorized to carry a firearm pursuant to this section.

(5) If an inmate relations coordinator or correctional officer who is employed by the department and has completed the appropriate probationary period resigns, is terminated, or is otherwise no longer employed by the department, the commissioner shall, within ten (10) days, so notify the secretary of state. Upon receiving the notice, the secretary of state shall revoke the identification card and send a letter of revocation to the inmate relations coordinator or correctional officer at the coordinator's or officer's last known address.

(6)(A) A person who is no longer an inmate relations coordinator or correctional officer employed by the department of correction but who still has an identification card issued by the secretary of state shall have ten (10) days from receipt of the letter of revocation from the secretary of state to return the card to the secretary.

(B) It is a Class C misdemeanor punishable by fine only of fifty dollars ($50.00) for a person to knowingly fail to return an identification card as required by subdivision (f)(6)(A).

(g) Notwithstanding any law to the contrary, a community corrections officer who holds a valid Tennessee handgun carry permit may carry a handgun at all times and in all places in Tennessee while in the course of employment and engaged in the actual discharge of official duties, except as provided by subsection (c), federal law, or lawful orders of court. This subsection applies to community corrections officers employed in counties having a population, according to the 2010 federal census or any subsequent federal census of:

not less than	nor more than
32,200	32,300
22,600	22,675
6,800	6,900
56,800	56,900
51,400	51,500
19,100	19,150

39-17-1351. Enhanced handgun carry permit.

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department of safety for an enhanced handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section,

the department shall issue a permit to the applicant; provided:

(1) The applicant is at least twenty-one (21) years of age; or

(2) The applicant is at least eighteen (18) years of age; and

(A)(i) Is an honorably discharged or retired veteran of the United States armed forces; and

(ii) Includes with the application a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214);

(B)(i) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a certified copy of the applicant's honorable discharge certificate, department of defense form 256 (DD 256), or report of separation and record of service, NGB form 22, that indicates an honorable discharge characterization; or

(C)(i) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active duty member of the military or a current member of the national guard or United States military reserve, who has successfully completed a basic training program.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining an enhanced handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

(1) Full legal name and any aliases;

(2) Addresses for the last five (5) years;

(3) Date of birth;

(4) Social security number;

(5) Physical description (height, weight, race, sex, hair color and eye color);

(6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses

relating to the regulations of business practices;

(8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;

(9) That the applicant is not a fugitive from justice;

(10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:

(A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or

(B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;

(11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;

(12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness;

(13) That the applicant is not an alien and is not illegally or unlawfully in the United States;

(14) That the applicant has not been discharged from the armed forces under dishonorable conditions;

(15) That the applicant has not renounced the applicant's United States citizenship;

(16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;

(17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and

(18) That the applicant has not been convicted of the offense of stalking.

(d)(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars ($5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the

person whose picture appears on the photo identification, the department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course within one (1) year of the date of application. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours; provided, that an applicant shall not be required to comply with the firing range requirements if the applicant submits proof to the department that the applicant has successfully passed small arms qualification training or combat pistol training in any branch of the United States armed forces. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and § 39-17-1321. An applicant shall not be required to comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for an enhanced handgun carry permit is filed the applicant has:

(1) Been certified by the peace officer standards and training commission;

(2) Successfully completed training at the law enforcement training academy;

(3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b);

(4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military; provided, however, that an applicant who seeks waiver of the training course pursuant to this subdivision (e)(4) may have completed the military handgun training at any time prior to submission of proof; or

(5) Successfully completed Tennessee department of correction firearms qualification.

(f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.

(g)(1) Upon receipt of a permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which

the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.

(h) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall:

(1) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the applicant's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the department;

(2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and

(3) Send one (1) set of the fingerprints received from the department to the federal bureau of investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.

(i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged;

(2) An applicant's conviction has been set aside by a court of competent jurisdiction;

(3) The applicant, who was rendered infamous or deprived of the rights of citizenship by judgment of any state or federal court, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however, that this subdivision (j)(3) shall not apply to any person who has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or

(4) The applicant, who was adjudicated as a mental defective or judicially committed to a mental institution, as defined in § 39-17-1301, has had the applicant's firearm disability removed by an order of the court pursuant to title 16, and either a copy of that order has been provided to the department by the TBI or a certified copy of that court order has been provided to the department by the applicant.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any

reports, records or inquiries reviewed or relied upon by the department.

(*l*) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than ninety (90) days after the date the department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew an enhanced handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining an enhanced handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of an enhanced handgun carry permit within eight (8) years from the date of expiration.

(n)(1) Except as provided in subdivision (n)(2) and subsection (x), a permit issued pursuant to this section shall be good for eight (8) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this state, unless the permit is sooner suspended, cancelled or revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(3) After the initial issuance of an enhanced handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(o)(1) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

(A) The permit holder's name, address and date of birth;

(B) A description of the permit holder by sex, height, weight and eye color;

(C) A color photograph of the permit holder; and

(D) The permit number, issuance date, and expiration date.

(2) The following language must be printed on the back of the card: This permit is valid beyond the expiration date if the permit holder can provide documentation of the holder's active military status and duty station outside Tennessee.

(p)(1) Except as provided in subsection (x), the department shall charge an application and processing fee of one hundred dollars ($100). The fee shall

cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars ($15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. On an annual basis, the comptroller of the treasury shall audit the bureau to ensure that the extra fifteen dollars ($15.00) received from each handgun permit application fee is being used exclusively for the purpose set forth in this subsection (p). By February 1 of each year the bureau shall provide documentation to the judiciary committee of the senate and the judiciary committee of the house of representatives that the extra fifteen dollars ($15.00) is being used exclusively for the intended purposes. The documentation shall state in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose of any equipment purchased. Any person, who has been honorably discharged from any branch of the United States armed forces or who is on active duty in any branch of the armed forces or who is currently serving in the national guard or armed forces reserve, and who makes initial application for an enhanced handgun carry permit shall be required to pay only that portion of the initial application fee that is necessary to conduct the required criminal history record checks.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars ($15.00) for the purpose of fingerprint data base updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars ($250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar ($15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars ($15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the applicant's answers as provided in subdivision (g)(1).

(q)(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars ($50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit. The department is authorized to contract with a local government agency for the provision of any service related to the renewal of enhanced handgun carry permits, subject to applicable contracting statutes and regulations. An agency contracting with the department is authorized to charge an additional fee of four dollars ($4.00) for each renewal application, which shall be retained by the agency

for administrative costs.

(2)(A) A person may renew that person's enhanced handgun carry permit beginning six (6) months prior to the expiration date on the face of the card, and, if the permit is not expired, the person shall only be required to comply with the renewal provisions of subdivision (q)(1).

(B) Any person who applies for renewal of that person's enhanced handgun carry permit after the expiration date on the face of the card shall only be required to comply with the renewal provisions of subdivision (q)(1) unless the permit has been expired for more than eight (8) years.

(C) Any person who applies for renewal of an enhanced handgun carry permit when the permit has been expired for more than eight (8) years, shall, for all purposes, be considered a new applicant.

(3) If a person whose enhanced handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within eight (8) years of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed eight (8) years or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes, be considered a new applicant.

(r)(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, this subsection (r) shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this state.

(3)(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor enhanced handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit

from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from the last day of the sixth month of regular employment in this state to obtain a Tennessee enhanced handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) This subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(iii) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of sick leave, annual leave, administrative leave or compensatory time.

(s)(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the enhanced handgun carry permit law, and the average time for issuance of an enhanced handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding calendar year shall be provided to each member of the general assembly.

(2)(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or

individuals; provided, that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for an enhanced handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

(x)(1) Any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a lifetime enhanced handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant. The lifetime enhanced handgun carry permit shall entitle the permit holder to carry any handgun or handguns the permit holder legally owns or possesses and shall entitle the permit holder to any privilege granted to enhanced handgun carry permit holders. The requirements imposed on enhanced handgun carry permit holders by this section shall also apply to lifetime enhanced handgun carry permit holders.

(2) The department shall charge an application and processing fee for a lifetime enhanced handgun carry permit equal to the application and processing fee charged under subsection (p) plus a lifetime enhanced handgun carry permit fee of two hundred dollars ($200); provided, however, that a permit holder who is applying for the renewal of an enhanced handgun carry permit under subsection (q) may instead obtain a lifetime enhanced handgun carry permit by submitting to the department a fee of two hundred dollars ($200). The application process shall otherwise be the same as the application process for an enhanced handgun carry permit as set out in this section. Any funds from the fees paid pursuant to this subdivision (x)(2) that are not used for processing applications and issuing permits shall be retained by the department to fund any necessary system modifications required to create a lifetime enhanced handgun carry permit and monitor the eligibility of lifetime enhanced handgun carry permit holders as required by subdivision (x)(3).

(3) A lifetime enhanced handgun carry permit shall not expire and shall continue to be valid for the life of the permit holder unless the permit holder

no longer meets the requirements of this section. A lifetime enhanced handgun carry permit shall not be subject to renewal; provided, however, that every five (5) years after issuance of the lifetime enhanced handgun carry permit, the department shall conduct a criminal history record check in the same manner as required for enhanced handgun carry permit renewals. Upon discovery that a lifetime enhanced handgun carry permit holder no longer satisfies the requirements of this section, the department shall suspend or revoke the permit pursuant to § 39-17-1352.

(4)(A) If the lifetime enhanced handgun carry permit holder's permit is suspended or revoked, the permit holder shall deliver, in person or by mail, the permit to the department within thirty (30) days of the suspension or revocation.

(B) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the suspension or revocation, the department shall send notice to the permit holder that:

(i) The permit holder has thirty (30) days from the date of the notice to deliver the permit, in person or by mail, to the department; and

(ii) If the permit holder fails to deliver the suspended or revoked permit to the department within thirty (30) days of the date of the notice, the department will suspend the permit holder's driver license.

(C) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the date of the notice provided by the department, the department shall suspend the permit holder's driver license in the same manner as provided in § 55-50-502.

(5) The total fee required by subdivision (x)(2) shall be waived if the applicant:

(A) Is a retired federal, state, or local law enforcement officer, as defined in § 39-11-106;

(B) Served for at least ten (10) years prior to retirement and was POST-certified, or had equivalent training, on the date the officer retired;

(C) Was in good standing at the time of leaving the law enforcement agency, as certified by the chief law enforcement officer or designee of the organization that employed the applicant; and

(D) Is a resident of this state on the date of the application.

(y) An applicant shall not be required to comply with the firing range requirements of this section if the applicant:

(1) Is an active duty service member or honorably discharged or retired veteran of the United States armed forces;

(2) Has a military occupational specialty, special qualification identifier, skill identifier, specialty code, or rating that identifies a service qualification in military police, special operations, or special forces; and

(3) Presents to the department a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or other official documentation that provides proof of the service criteria required under this subsection (y).

39-17-1502. Purpose and intent. [Effective until January 1, 2021 See version effective on January 1, 2021.]

(a) The purpose of this part is to reduce the access of persons under eighteen (18) years of age to tobacco products by strengthening existing prohibitions against the sale and distribution of tobacco products and prohibiting the purchase or receipt of tobacco products by such persons, limiting the sale of tobacco products through vending machines, restricting the distribution of tobacco product samples, prohibiting the sale of cigarettes or smokeless tobacco products other than in unopened packages, and random, unannounced inspections of locations where tobacco products are sold or distributed, providing for the report required to be submitted to the United States department of health and human services pursuant to Section 1926 of the Public Health Service Act (42 U.S.C. § 300x-26), and ensuring uniform regulations with respect to tobacco products within this state.

(b) The purpose of this part is also to prohibit the sale or distribution of vapor products to, or purchase of vapor products on behalf of, persons under eighteen (18) years of age.

(c) The purpose of this part is also to prohibit the sale or distribution of smoking hemp products to, or purchase of smoking hemp products on behalf of, persons under eighteen (18) years of age.

(d) It is the intent of the general assembly that this part be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants that this state now receives or may receive relating to this part.

39-17-1502. Purpose and intent. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) The purpose of this part is to reduce the access of persons under twenty-one (21) years of age to tobacco products by strengthening existing prohibitions against the sale and distribution of tobacco products and prohibiting the purchase or receipt of tobacco products by such persons, limiting the sale of tobacco products through vending machines, restricting the distribution of tobacco product samples, prohibiting the sale of cigarettes or smokeless tobacco products other than in unopened packages, and random, unannounced inspections of locations where tobacco products are sold or distributed, providing for the report required to be submitted to the United States department of health and human services pursuant to Section 1926 of the Public Health Service Act (42 U.S.C. § 300x-26*), and ensuring uniform regulations with respect to tobacco products within this state.*

(b) The purpose of this part is also to prohibit the sale or distribution of vapor products to, or purchase of vapor products on behalf of, persons under twenty-one (21) years of age.

(c) The purpose of this part is also to prohibit the sale or distribution of smoking hemp products to, or purchase of smoking hemp products on behalf of, persons under twenty-one (21) years of age.

(d) It is the intent of the general assembly that this part be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants that this state now receives or may receive relating to this part.

39-17-1503. Part definitions. [Effective until January 1, 2021. See version effective on January 1, 2021.]

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

(1) "Beedies" or "bidis" means a product containing tobacco that is wrapped in temburni leaf (*dispyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as beedies or bidis. For purposes of this chapter, beedies or bidis shall be considered a tobacco product;

(2) "Commissioner" means the commissioner of agriculture or the commissioner's duly authorized representative;

(3) "Department" means the department of agriculture;

(4) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(5) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association;

(6) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid. Except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee is eighteen (18) years of age or older;

(7) "Public place" means any public street, sidewalk or park, or any area open to the general public in any publicly owned or operated building;

(8) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(9) "Sampling" means the distribution of samples to members of the general public in a public place;

(10) "Smoking hemp" means hemp that is offered for sale to the public with the intention that it is consumed by smoking and that does not meet the definition of a vapor product;

(11) "Tobacco product" means any product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes and bidis; and

(12) "Vapor product":

(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge, any substance used to refill a vapor cartridge, or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include any product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.).

39-17-1503. Part definitions. [Effective on January 1, 2021. See version effective until January 1, 2021.]

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

*(1) "Beedies" or "bidis" means a product containing tobacco that is wrapped in temburni leaf (**dispyros melanoxylon**) or tendu leaf (**diospyros exculpra**), or any other product that is offered to, or purchased by, consumers as beedies or bidis. For purposes of this chapter, beedies or bidis shall be considered a tobacco product;*

(2) "Commissioner" means the commissioner of agriculture or the commissioner's duly authorized representative;

(3) "Department" means the department of agriculture;

(4) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(5) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association;

(6) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as twenty-one (21) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid. Except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee is twenty-one (21) years of age or older;

(7) "Public place" means any public street, sidewalk or park, or any area open to the general public in any publicly owned or operated building;

(8) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(9) "Sampling" means the distribution of samples to members of the general public in a public place;

(10) "Smoking hemp" means hemp that is offered for sale to the public with the intention that it is consumed by smoking and that does not meet the definition of a vapor product;

(11) "Tobacco product" means any product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes and bidis; and

(12) "Vapor product":

(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge, any substance used to refill a vapor cartridge, or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include any product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.).

39-17-1504. Sale or distribution to minors unlawful — Proof of age requirement. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) It is unlawful for any person to sell or distribute any tobacco, smoking hemp, or vapor product to another person who has not attained eighteen (18) years of age or to purchase a tobacco, smoking hemp, or vapor product on behalf of such person under eighteen (18) years of age.

(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained eighteen (18) years of age to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco, smoking hemp, or vapor product. This section and § 39-17-1505 shall not be deemed to preclude law enforcement efforts involving the use of individuals under eighteen (18) years of age if the minor's parent or legal guardian has consented to this action.

(c) No person shall distribute tobacco, smoking hemp, or vapor product samples in or on any public street, sidewalk, or park.

(d) A person engaged in the sale or distribution of tobacco, smoking hemp, or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under twenty-seven (27) years of age. In the case of distribution by mail, the distributor of tobacco, smoking hemp, or vapor products shall obtain from the addressee an affirmative statement that the person is eighteen (18) years of age or older, and shall inform the recipient that the person is strictly prohibited from distributing any tobacco, smoking hemp, or vapor product, as defined by this part, to any person under eighteen (18) years of age.

39-17-1504. Sale or distribution to underage persons unlawful — Proof of age requirement. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) It is unlawful for any person to sell or distribute any tobacco, smoking hemp, or vapor product to another person who has not attained twenty-one (21) years of age or to purchase a tobacco, smoking hemp, or vapor product on behalf of such person under twenty-one (21) years of age.

(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained twenty-one (21) years of age to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco, smoking hemp, or vapor product. This section and § 39-17-1505 do not preclude law enforcement efforts involving:

(1) The use of a minor if the minor's parent or legal guardian has consented to this action; or

(2) The use of an individual under twenty-one (21) years of age who is not a minor if the individual has consented to this action.

(c) No person shall distribute tobacco, smoking hemp, or vapor product samples in or on any public street, sidewalk, or park.

(d) A person engaged in the sale or distribution of tobacco, smoking hemp, or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under thirty (30) years of age. In the case of distribution by mail, the distributor of tobacco, smoking hemp, or vapor products shall obtain from the addressee an affirmative statement that

the person is twenty-one (21) years of age or older, and shall inform the recipient that the person is strictly prohibited from distributing any tobacco, smoking hemp, or vapor product, as defined by this part, to any person under twenty-one (21) years of age.

39-17-1505. Prohibited purchases or possession by minors — Penalties. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) It is unlawful for a person who has not attained eighteen (18) years of age to possess either a tobacco, smoking hemp, or vapor product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco, smoking hemp, or vapor product.

(b) Any person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), which may be charged against a parent, guardian, or custodian, but not a minor. The juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period.

(d) A minor who is cooperating with law enforcement officers in an operation designed to test the compliance of other persons with this part shall not be subject to sanctions under this section.

(e) As used in this section, "law enforcement officer" means an officer, employee or agent of government who is authorized by law to investigate the commission or suspected commission of violations of Tennessee law.

(f) It is not unlawful for a person under eighteen (18) years of age to handle or transport:

(1) Tobacco, tobacco products, smoking hemp, or vapor products as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco, smoking hemp, or vapor products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

(g) Nothing in this section shall be construed to prohibit a person under eighteen (18) years of age from handling or transporting tobacco or hemp as part of and in the course of the person's involvement in any aspect of the agricultural production or storage of tobacco or hemp, the sale of raw tobacco or hemp at market or the transportation of raw tobacco or hemp to a processing facility.

39-17-1505. Prohibited purchases or possession by underage persons — Penalties. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) It is unlawful for a person who has not attained twenty-one (21) years of age of age to possess either a tobacco, smoking hemp, or vapor product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco, smoking hemp, or vapor product.

(b) Any person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the general sessions or juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), which may be charged against a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age, or, in the case of a minor, against a parent, guardian, or custodian. The general sessions or juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed court program for a second or subsequent violation within a one-year period.

(d) A person who has not attained twenty-one (21) years of age and who is cooperating with law enforcement officers in an operation designed to test the compliance of other persons with this part is not subject to sanctions under this section.

(e) As used in this section, "law enforcement officer" means an officer, employee or agent of government who is authorized by law to investigate the commission or suspected commission of violations of Tennessee law.

(f) It is not unlawful for a person under twenty-one (21) years of age to handle or transport:

(1) Tobacco, tobacco products, smoking hemp, or vapor products as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco, smoking hemp, or vapor products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

(g) Nothing in this section shall be construed to prohibit a person under twenty-one (21) years of age from handling or transporting tobacco or hemp as part of and in the course of the person's involvement in any aspect of the agricultural production or storage of tobacco or hemp, the sale of raw tobacco or hemp at market or the transportation of raw tobacco or hemp to a processing facility.

39-17-1506. Required postings. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) Every person who sells tobacco products at retail shall post conspicuously and keep so posted at the place of business a sign, no smaller than ninety-three and one-half (93½) square inches, to ensure that it is likely to be

read at each point of sale, stating the following:
STATE LAW STRICTLY PROHIBITS THE SALE
OF TOBACCO PRODUCTS OR SMOKING PARAPHERNALIA
TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS
PROOF OF AGE MAY BE REQUIRED

(b) Unless another notice is required by federal law, the notice required by this section and the notice required by § 39-15-411 shall be the only notice regarding tobacco products required to be posted or maintained in any store that sells tobacco products at retail.

39-17-1506. Required postings. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) Every person who sells tobacco, smoking hemp, or vapor products at retail shall post conspicuously and keep so posted at the place of business a sign, no smaller than ninety-three and one-half (93 ½) square inches, to ensure that it is likely to be read at each point of sale, stating the following:

STATE LAW STRICTLY PROHIBITS THE SALE OF TOBACCO PRODUCTS, VAPOR PRODUCTS, OR SMOKING PARAPHERNALIA TO PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS
PROOF OF AGE MAY BE REQUIRED

(b) Unless another notice is required by federal law, the notice required by this section and the notice required by § 39-15-411 shall be the only notice regarding tobacco, smoking hemp, or vapor products required to be posted or maintained in any store that sells tobacco, smoking hemp, or vapor products at retail.

39-17-1507. Vending machine sales. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) It is unlawful for any person to sell tobacco or smoking hemp products through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public;

(2) In places that are open to the public but to which persons under eighteen (18) years of age are denied access;

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, and is inaccessible to the public when the establishment is closed; and

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, or the machine can be operated only by the use of a token purchased from the owner or lessee of the premises or an employee of the owner or lessee of the premises prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In any place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under twenty-seven (27) years of age.

39-17-1507. Vending machine sales. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) It is unlawful for any person to sell tobacco, smoking hemp, or vapor products through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public;

(2) In places that are open to the public but to which persons under twenty-one (21) years of age are denied access;

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, and is inaccessible to the public when the establishment is closed; and

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, or the machine can be operated only by the use of a token purchased from the owner or lessee of the premises or an employee of the owner or lessee of the premises prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In any place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under thirty (30) years of age.

39-17-1509. Enforcement — Inspections — Reporting — Civil penalties. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) The department shall enforce this part in a manner that may reasonably be expected to reduce the extent to which tobacco or smoking hemp products are sold or distributed to persons under eighteen (18) years of age, and shall conduct random, unannounced inspections at locations where tobacco or smoking hemp products are sold or distributed to ensure compliance with this part.

(b) A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 shall receive only a warning letter for the person's first violation and shall not receive a civil penalty for the person's first violation. A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 is subject to a civil penalty of not more than five hundred dollars ($500) for the person's second violation, not more than one thousand dollars ($1,000) for the person's third violation and not more than one thousand five hundred dollars ($1,500) for the person's fourth or subsequent violation. For purposes of determining whether a violation is the person's first, second, third, fourth or subsequent violation, the commissioner shall count only those violations that occurred within the previous five (5) years. A civil penalty shall be assessed in the following manner:

(1) The commissioner shall issue the assessment of civil penalty against any person responsible for the violation;

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the commissioner a written petition setting forth the person's reasons for objection to the assessment and asking for a hearing before the commissioner;

(3) Any hearing before the commissioner shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. An appeal from the final order of the commissioner may be taken by the person to whom the assessment was issued, and the appeal proceedings shall be conducted in accordance with the judicial review provisions of the Uniform Administrative Procedures Act, codified in §§ 4-5-322 and 4-5-323; and

(4) If a petition for review is not filed within thirty (30) days after the date the person received the assessment, the person shall be deemed to have consented to the assessment, and it shall become final. Whenever an assessment has become final, the commissioner may apply to the chancery court of Davidson County for a judgment in the amount of the assessment and seek execution on the judgment. The chancery court of Davidson County shall treat a person's failure to file a petition for review of an assessment as a confession of judgment in the amount of the assessment.

(c) A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 39-17-1504 or § 39-17-1507. In the case of distribution of any tobacco, smoking hemp, or vapor product by mail, a person who obtained a statement from the addressee that the addressee is at least eighteen (18) years of age is not liable for a civil penalty so long as that distributor of the tobacco, smoking hemp, or vapor product informed the addressee that § 39-17-1504 prohibits the distribution of tobacco, smoking hemp, and vapor products to a person under eighteen (18) years of age.

(d) When assessing a civil penalty, the commissioner is authorized to assess the penalty against any person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager or employee of a store at which any tobacco, smoking hemp, or vapor product is sold at retail, the owner, manager or employee of an establishment in which a vending machine selling tobacco or smoking hemp products is located, and a company or any of its employees engaged in the business of sampling.

(e)(1) The owner or manager of a store that sells tobacco and smoking hemp products at retail shall provide training to the store's employees concerning the provisions of this part. As a part of this training, each employee shall, prior to selling tobacco and smoking hemp products at retail, sign a statement containing substantially the following words:

I understand that state law prohibits the sale of tobacco and smoking hemp products to persons under eighteen (18) years of age and that state law requires me to obtain proof of age from a prospective purchaser of tobacco and smoking hemp products who, based on appearance, might be as old as twenty-six (26) years of age. I promise to obey this law, and I understand that monetary or criminal penalties may be imposed on me if I violate this law.

(2) If the commissioner assesses a penalty against the store owner or manager, the owner or manager may present to the commissioner a copy of the statement described in subdivision (e)(1) that was signed by the employee who made the sale to a minor, along with a sworn statement by the owner or

manager that the employee had signed the statement prior to the sale to the minor, and the name and address of the employee who made the sale. If the owner or manager does not know which employee made the sale to the minor, the owner or manager may present to the commissioner copies of the statements described in subdivision (e)(1) that were signed by all employees working at the store on the day the sale was made, along with a sworn statement that these employees had signed those statements prior to the sale to the minor.

(3) When the store owner or manager presents to the commissioner the statements described in subdivision (e)(2):

(A) If the violation is the second violation determined to have occurred at that store, the penalty against the store owner or manager shall be eliminated; or

(B) If the violation is the third or subsequent violation determined to have occurred at that store, the commissioner shall consider that evidence and any other evidence with respect to the amount of the penalty against the owner or manager.

(f) The department shall prepare annually for submission by the governor to the secretary of the United States department of health and human services the report required by Section 1926 of subpart I of Part B of Title XIX of the Public Health Service Act (42 U.S.C. § 300x-26). The department shall prepare for submission to the general assembly and the public an annual report describing in detail the department's enforcement efforts under this part.

39-17-1509. Enforcement — Inspections — Reporting — Civil penalties. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) The department shall enforce this part in a manner that may reasonably be expected to reduce the extent to which tobacco, smoking hemp, or vapor products are sold or distributed to persons under twenty-one (21) years of age, and shall conduct random, unannounced inspections at locations where tobacco, smoking hemp, or vapor products are sold or distributed to ensure compliance with this part.

(b) A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 shall receive only a warning letter for the person's first violation and shall not receive a civil penalty for the person's first violation. A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 is subject to a civil penalty of not more than five hundred dollars ($500) for the person's second violation, not more than one thousand dollars ($1,000) for the person's third violation and not more than one thousand five hundred dollars ($1,500) for the person's fourth or subsequent violation. For purposes of determining whether a violation is the person's first, second, third, fourth or subsequent violation, the commissioner shall count only those violations that occurred within the previous five (5) years. A civil penalty shall be assessed in the following manner:

(1) The commissioner shall issue the assessment of civil penalty against any person responsible for the violation;

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the commissioner a written petition setting forth the person's reasons for objection to the assessment and asking

for a hearing before the commissioner;

(3) Any hearing before the commissioner shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. An appeal from the final order of the commissioner may be taken by the person to whom the assessment was issued, and the appeal proceedings shall be conducted in accordance with the judicial review provisions of the Uniform Administrative Procedures Act, codified in §§ 4-5-322 and 4-5-323; and

(4) If a petition for review is not filed within thirty (30) days after the date the person received the assessment, the person shall be deemed to have consented to the assessment, and it shall become final. Whenever an assessment has become final, the commissioner may apply to the chancery court of Davidson County for a judgment in the amount of the assessment and seek execution on the judgment. The chancery court of Davidson County shall treat a person's failure to file a petition for review of an assessment as a confession of judgment in the amount of the assessment.

(c) A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 39-17-1504 or § 39-17-1507. In the case of distribution of any tobacco, smoking hemp, or vapor product by mail, a person who obtained a statement from the addressee that the addressee is at least twenty-one (21) years of age is not liable for a civil penalty so long as that distributor of the tobacco, smoking hemp, or vapor product informed the addressee that § 39-17-1504 prohibits the distribution of tobacco, smoking hemp, and vapor products to a person under twenty-one (21) years of age.

(d) When assessing a civil penalty, the commissioner is authorized to assess the penalty against any person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager or employee of a store at which any tobacco, smoking hemp, or vapor product is sold at retail, the owner, manager or employee of an establishment in which a vending machine selling tobacco or tobacco, smoking hemp, or vapor products is located, and a company or any of its employees engaged in the business of sampling.

(e)(1) The owner or manager of a store that sells tobacco, smoking hemp, or vapor products at retail shall provide training to the store's employees concerning the provisions of this part. As a part of this training, each employee shall, prior to selling tobacco, smoking hemp, or vapor products at retail, sign a statement containing substantially the following words:

I understand that state law prohibits the sale of tobacco, smoking hemp, or vapor products to persons under twenty-one (21) years of age and that state law requires me to obtain proof of age from a prospective purchaser of tobacco, smoking hemp, or vapor products who, based on appearance, might be as old as twenty-nine (29) years of age. I promise to obey this law, and I understand that monetary or criminal penalties may be imposed on me if I violate this law.

(2) If the commissioner assesses a penalty against the store owner or manager, the owner or manager may present to the commissioner a copy of the statement described in subdivision (e)(1) that was signed by the employee who made the sale to a minor, along with a sworn statement by the owner or manager that the employee had signed the statement prior to the sale to the minor, and the name and address of the employee who made the sale. If the owner or manager does not know which employee made the sale to the minor, the

owner or manager may present to the commissioner copies of the statements described in subdivision (e)(1) that were signed by all employees working at the store on the day the sale was made, along with a sworn statement that these employees had signed those statements prior to the sale to the minor.

(3) When the store owner or manager presents to the commissioner the statements described in subdivision (e)(2):

(A) If the violation is the second violation determined to have occurred at that store, the penalty against the store owner or manager shall be eliminated; or

(B) If the violation is the third or subsequent violation determined to have occurred at that store, the commissioner shall consider that evidence and any other evidence with respect to the amount of the penalty against the owner or manager.

(f) The department shall prepare annually for submission by the governor to the secretary of the United States department of health and human services the report required by Section 1926 of subpart I of Part B of Title XIX of the Public Health Service Act (42 U.S.C. § 300x-26). The department shall prepare for submission to the general assembly and the public an annual report describing in detail the department's enforcement efforts under this part.

39-17-1511. Maintenance of smoking paraphernalia in area inaccessible to customers. [Effective until January 1, 2021. See version effective on January 1, 2021.]

(a) For the purpose of this section:

(1) "Counter" means the point of purchase at a retail establishment;

(2) "Retail establishment" means a place of business open to the general public for the sale of goods or services; and

(3) "Smoking paraphernalia" means:

(A) A cigarette holder;

(B) A smoking pipe made of metal, wood, acrylic, glass, stone, or plastic with or without screens, permanent screens, hashish heads or punctured metal bowls;

(C) A water pipe; or

(D) Rose and pen combinations; and

(4) "Smoking paraphernalia" does not include a smoking pipe or smoking device when sold at retail, if the smoking pipe or smoking device is primarily made of briar, meerschaum, clay or corn cob.

(b) All smoking paraphernalia shall be maintained behind the counter of a retail establishment in an area inaccessible to a customer or in a locked display case that makes the products unavailable to a customer without the assistance of an employee.

(c)(1) A violation of this section is punishable as provided in § 39-17-1509.

(2) If smoking paraphernalia is sold in violation of this section by an employee, the owner or operator of the retail establishment where the employee sold the products shall be in violation of this section.

39-17-1511. Maintenance of smoking paraphernalia in area inaccessible to customers. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) For the purpose of this section:

(1) "Counter" means the point of purchase at a retail establishment;

(2) "Retail establishment" means a place of business open to the general public for the sale of goods or services; and

(3) "Smoking paraphernalia" means:

(A) A cigarette holder;

(B) A smoking pipe made of metal, wood, acrylic, glass, stone, or plastic with or without screens, permanent screens, hashish heads or punctured metal bowls;

(C) A water pipe;

(D) Rose and pen combinations; or

(E) Vapor products; and

(4) "Smoking paraphernalia" does not include a smoking pipe or smoking device when sold at retail, if the smoking pipe or smoking device is primarily made of briar, meerschaum, clay or corn cob.

(b) All smoking paraphernalia shall be maintained behind the counter of a retail establishment in an area inaccessible to a customer or in a locked display case that makes the products unavailable to a customer without the assistance of an employee.

(c)(1) A violation of this section is punishable as provided in § 39-17-1509.

(2) If smoking paraphernalia is sold in violation of this section by an employee, the owner or operator of the retail establishment where the employee sold the products shall be in violation of this section.

39-17-1513. Department of agriculture encouraged to study effects of sale and distribution of vapor products to persons under 18. [Effective until January 1, 2021. See version effective on January 1, 2021.]

The department of agriculture is urged to study the effects of the sale and distribution of vapor products to persons under eighteen (18) years of age and is encouraged to make recommendations to the legislature with regard to reducing such sale and distribution.

39-17-1513. Department of agriculture encouraged to study effects of sale and distribution of vapor products to persons under 21. [Effective on January 1, 2021. See version effective until January 1, 2021.]

The department of agriculture is urged to study the effects of the sale and distribution of vapor products to persons under twenty-one (21) years of age and is encouraged to make recommendations to the legislature with regard to reducing such sale and distribution.

39-17-1551. Purpose of part — Exemptions — Authority to prohibit smoking.

(a) The general assembly intends by this part and other provisions of Tennessee Code Annotated to occupy and preempt the entire field of legislation concerning the regulation of tobacco products. Any law or regulation of tobacco products enacted or promulgated after March 15, 1994, by any agency or political subdivision of the state or any agency thereof is void; provided, that cities, counties and counties having a metropolitan form of government may regulate the use of tobacco products in buildings owned or leased by the

political subdivisions; and provided further, that airport authorities created pursuant to title 42; utility districts created pursuant to title 7; and special school districts may regulate the use of tobacco products in buildings owned or leased by the entities. Notwithstanding any other law to the contrary, individual owners or operators of retail establishments located within an enclosed shopping mall shall retain the right to determine the policy on the use of tobacco products within the person's establishment.

(b)(1) Notwithstanding subsection (a) or any other provision of this title, a municipality, a county or a county having a metropolitan form of government is authorized by local ordinance or resolution to prohibit smoking on the grounds of a hospital or in the public areas immediately outside of a hospital building and its entrances, including public sidewalks.

(2) Any regulation or ordinance that is passed or adopted by a local government pursuant to the authority granted by this subsection (b) may prohibit smoking by a distance of up to fifty feet (50′) from a hospital's entrance unless the application of a fifty-foot limit would place hospital patients in a potentially unsafe condition. In which case the fifty-foot limit shall be extended to such distance as is necessary to ensure patient safety as determined by the local government's legislative body in consultation with representatives of any hospitals that are subject to the regulation or ordinance.

(c)(1) Notwithstanding subsection (a) or any other provision of this title, a local government is authorized by ordinance to prohibit smoking on the grounds of a swimming pool owned or operated by such local government or an outdoor amphitheater with a seating capacity of at least six thousand (6,000) owned or operated by such local government.

(2) Subdivision (c)(1) shall only apply to:

(A) Municipalities located in a county having a population of not less than one hundred fifty-six thousand eight hundred (156,800) nor more than one hundred fifty-six thousand nine hundred (156,900), according to the 2010 federal census or any subsequent federal census; or

(B) Any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(d)(1) Notwithstanding subsection (a) or any other provision of this title, a local government is authorized by ordinance to prohibit smoking on the grounds of an urban park center, as described in § 57-4-102.

(2) Subdivision (d)(1) shall only apply to municipalities located in a county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census.

(e)(1) Notwithstanding subsection (a) or any other provision of this title, a local government may prohibit smoking on the grounds of a playground by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the local government.

(2) As used in this subsection (e):

(A) "Playground" means an indoor or outdoor facility that is intended for recreation of children and owned by the local government; and

(B) "Smoking" means the burning of a tobacco product, hemp product, or any other drug or substance. "Smoking" does not include the use of a vapor product.

39-17-1804. Exempted areas. [Effective until January 1, 2021. See version effective on January 1, 2021.]

Notwithstanding any other provision of this part to the contrary, the following areas shall be exempt from § 39-17-1803:

(1) Age-restricted venues;

(2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, that no more than twenty-five percent (25%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor shall be contiguous and smoke from these rooms shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(3) All premises of any manufacturer, importer, or wholesaler of tobacco products, all premises of any tobacco leaf dealer or processor, and all tobacco storage facilities;

(4)(A) Nonenclosed areas of public places, including:

(i) Open air patios, porches or decks;

(ii) Any area enclosed by garage type doors on one (1) or more sides when all those doors are completely open; and

(iii) Any area enclosed by tents or awnings with removable sides or vents when all those sides or vents are completely removed or open;

(B) Smoke from those nonenclosed areas shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(5) Nursing homes and long-term care facilities licensed pursuant to title 68, chapter 11; provided, that this exemption shall only apply to residents of those facilities and that resident smoking practices shall be governed by the policies and procedures established by those facilities. Smoke from such areas shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(6) Private businesses with three (3) or fewer employees where, in the discretion of the business owner, smoking may be allowed in an enclosed room not accessible to the general public. Smoke from that room shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(7) Private clubs; provided, that this exemption shall not apply to any entity that is established solely for the purpose of avoiding compliance with this part;

(8) Private homes, private residences and private motor vehicles, unless those homes, residences and motor vehicles are being used for child care or day care or unless the private vehicle is being used for the public transportation of children or as part of health care or day care transportation;

(9) Retail tobacco stores that prohibit minors on their premises; and

(10) Commercial vehicles when the vehicle is occupied solely by the operator.

39-17-1804. Exempted areas. [Effective on January 1, 2021. See version effective until January 1, 2021.]

Notwithstanding any other provision of this part to the contrary, the following areas shall be exempt from § 39-17-1803:

(1) Age-restricted venues;

(2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, that no more than twenty-five percent (25%) of

rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor shall be contiguous and smoke from these rooms shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(3) All premises of any manufacturer, importer, or wholesaler of tobacco products, all premises of any tobacco leaf dealer or processor, and all tobacco storage facilities;

(4)(A) Nonenclosed areas of public places, including:

(i) Open air patios, porches or decks;

(ii) Any area enclosed by garage type doors on one (1) or more sides when all those doors are completely open; and

(iii) Any area enclosed by tents or awnings with removable sides or vents when all those sides or vents are completely removed or open;

(B) Smoke from those nonenclosed areas shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(5) Nursing homes and long-term care facilities licensed pursuant to title 68, chapter 11; provided, that this exemption shall only apply to residents of those facilities and that resident smoking practices shall be governed by the policies and procedures established by those facilities. Smoke from such areas shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(6) Private businesses with three (3) or fewer employees where, in the discretion of the business owner, smoking may be allowed in an enclosed room not accessible to the general public. Smoke from that room shall not infiltrate into areas where smoking is prohibited pursuant to this part;

(7) Private clubs; provided, that this exemption shall not apply to any entity that is established solely for the purpose of avoiding compliance with this part;

(8) Private homes, private residences and private motor vehicles, unless those homes, residences and motor vehicles are being used for child care or day care or unless the private vehicle is being used for the public transportation of children or as part of health care or day care transportation;

(9) Retail tobacco stores that prohibit persons under twenty-one (21) years of age on their premises; and

(10) Commercial vehicles when the vehicle is occupied solely by the operator.

40-7-118. Use of citations in lieu of continued custody of an arrested person.

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

(1) "Citation" means an order prepared as a written or electronic citation and issued by a peace officer on paper or on an electronic data device requiring a person accused of violating the law to appear in a designated court or government office at a specified date and time. The signature of the person to whom the order is issued is required, and the order must be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense;

(2) "Magistrate" means any state judicial officer, including the judge of a municipal court, having original trial jurisdiction over misdemeanors or felonies; and

(3)(A) "Peace officer" means an officer, employee or agent of government

who has a duty imposed by law to:

(i) Maintain public order;

(ii) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(iii) Investigate the commission or suspected commission of offenses; and

(B) "Peace officer" also includes an officer, employee or agent of government who has the duty or responsibility to enforce laws and regulations pertaining to forests in this state.

(b)(1) A peace officer who has arrested a person for the commission of a misdemeanor committed in the peace officer's presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, shall issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate. If the peace officer is serving an arrest warrant or capias issued by a magistrate for the commission of a misdemeanor, it is in the discretion of the issuing magistrate whether the person is to be arrested and taken into custody or arrested and issued a citation in accordance with this section in lieu of continued custody. The warrant or capias shall specify the action to be taken by the serving peace officer who shall act accordingly.

(2)(A) This subsection (b) does not apply to an arrest for the offense of driving under the influence of an intoxicant as prohibited by § 55-10-401, unless the offender was admitted to a hospital, or detained for medical treatment for a period of at least three (3) hours, for injuries received in a driving under the influence incident.

(B) This subsection (b) does not apply to any misdemeanor offense for which § 55-10-207 or § 55-12-139 authorizes a traffic citation in lieu of arrest, continued custody and the taking of the arrested person before a magistrate.

(3) A peace officer may issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate if a person is arrested for:

(A) The offense of theft which formerly constituted shoplifting, in violation of § 39-14-103;

(B) Issuance of bad checks, in violation of § 39-14-121;

(C) Use of a revoked or suspended driver license in violation of § 55-50-504, § 55-50-601 or § 55-50-602;

(D) Assault or battery as those offenses are defined by common law, if the officer believes there is a reasonable likelihood that persons would be endangered by the arrested person if a citation were issued in lieu of continued physical custody of the defendant; or

(E) Prostitution, in violation of § 39-13-513, if the arresting party has knowledge of past conduct of the defendant in prostitution or has reasonable cause to believe that the defendant will attempt to engage in prostitution activities within a reasonable period of time if not arrested.

(c) A peace officer may arrest and take a person into custody if:

(1) A reasonable likelihood exists that the arrested person will fail to appear in court; or

(2) The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized.

(d) No citation shall be issued under this section if:

(1) The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;

(2) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;

(3) The person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation;

(4) [Deleted by 2019 amendment.]

(5) [Deleted by 2019 amendment.]

(6) The person demands to be taken immediately before a magistrate or refuses to sign the citation;

(7) The person arrested is so intoxicated that the person could be a danger to the person's own self or to others;

(8) There are one (1) or more outstanding arrest warrants for the person; or

(9) The person is subject to arrest pursuant to § 55-10-119.

(e)(1) In issuing a citation, the officer shall:

(A) Prepare a citation that includes the name and address of the cited person, the offense charged, and the time and place of appearance;

(B) Have the offender sign the citation. The officer shall deliver one (1) copy to the offender and retain the other; and

(C) Release the cited person from custody.

(2)(A) An electronic signature may be used to sign a citation issued electronically and has the same force and effect as a written signature.

(B) Whenever a citation is issued electronically, the officer shall provide the cited person with a paper copy of the citation.

(C) Replicas of citation data sent by electronic transmission must be sent within three (3) days of the issuance of the citation to the court having jurisdiction over the alleged offense.

(f) By accepting the citation, the defendant agrees to appear at the arresting law enforcement agency prior to trial to be booked and processed. Failure to so appear is a Class A misdemeanor.

(g) If the person cited fails to appear in court on the date and time specified or fails to appear for booking and processing prior to the person's court date, the court shall issue a bench warrant for the person's arrest.

(h) Whenever a citation has been prepared, delivered and filed with a court as provided in this section, a duplicate copy of the citation constitutes a complaint to which the defendant shall answer. The duplicate copy shall be sworn to by the issuing officer before any person authorized by law to administer oaths.

(i) Nothing in this section shall be construed to affect a peace officer's authority to conduct a lawful search even though the citation is issued after arrest.

(j) Any person who intentionally, knowingly or willfully fails to appear in court on the date and time specified on the citation or who knowingly gives a false or assumed name or address commits a Class A misdemeanor, regardless of the disposition of the charge for which the person was originally arrested. Proof that the defendant failed to appear when required constitutes prima facie evidence that the failure to appear is willful.

(k) Whenever an officer makes a physical arrest for a misdemeanor and the

officer determines that a citation cannot be issued because of one (1) of the seven (7) reasons enumerated in subsection (d), the officer shall note the reason for not issuing a citation on the arrest ticket. An officer who, on the basis of facts reasonably known or reasonably believed to exist, determines that a citation cannot be issued because of one (1) of the seven (7) reasons enumerated in subsection (d) shall not be subject to civil or criminal liability for false arrest, false imprisonment or unlawful detention.

(*l*)(1) Each citation issued pursuant to this section shall have printed on it in large, conspicuous block letters the following:

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED BY THIS CITATION OR AT THE APPROPRIATE POLICE STATION FOR BOOKING AND PROCESSING WILL RESULT IN YOUR ARREST FOR A SEPARATE CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE OF ELEVEN (11) MONTHS AND TWENTY-NINE (29) DAYS AND/OR A FINE OF UP TO TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500).

(2) Each person receiving a citation under this section shall sign this citation indicating the knowledge of the notice listed in subdivision (*l*)(1). The signature of each person creates a presumption of knowledge of the notice and a presumption of intent to violate this section if the person should not appear as required by the citation.

(3) Whenever there are changes in the citation form notice required by this subsection (*l*), a law enforcement agency may exhaust its existing supply of citation forms before implementing the new citation forms.

(m) This section shall govern all aspects of the issuance of citations in lieu of the continued custody of an arrested person, notwithstanding any provision of Rule 3.5 of the Tennessee Rules of Criminal Procedure to the contrary.

(n) In cases in which:

(1) The public will not be endangered by the continued freedom of the suspected misdemeanant; and

(2) The law enforcement officer has reasonable proof of the identity of the suspected misdemeanant.

(3) [Deleted by 2019 amendment.]

the general assembly finds that the issuance of a citation in lieu of arrest of the suspected misdemeanant will result in cost savings and increased public safety by allowing the use of jail space for dangerous individuals and/or felons and by keeping officers on patrol. Accordingly, the general assembly encourages all law enforcement agencies to so utilize misdemeanor citations and to encourage their personnel to use those citations when reasonable and according to law.

40-11-153. Release within twelve hours of the time of arrest prohibited for certain offenses — Exceptions — Requirements.

(a) Any defendant arrested for the offense of unauthorized camping on state property, as defined in § 39-14-414; vandalism, as described in § 39-14-408(b)(1); rioting, as defined in § 39-17-302; aggravated rioting, as defined in § 39-17-303; inciting to riot, as defined in § 39-17-304; disrupting a meeting or procession, as described in § 39-17-306; or obstructing a highway, as described in § 39-17-307(a)(1) shall not be released within twelve (12) hours of the time of arrest. The magistrate or other official duly authorized to release the defendant may, however, release the defendant in less than twelve (12) hours

if the official finds that the defendant is not likely to immediately resume the criminal behavior based on the circumstances of the arrest and the defendant's prior criminal history, if any.

(b) The findings of the magistrate or other official duly authorized to release the defendant must be reduced to writing. The written findings must be attached to the warrant and shall be preserved as a permanent part of the record. The arresting officer shall make official note of the time of the arrest in order to establish the beginning of the twelve-hour period required by this section.

40-34-107. [Repealed.]

40-35-114. Enhancement factors.

If appropriate for the offense and if not already an essential element of the offense, the court shall consider, but is not bound by, the following advisory factors in determining whether to enhance a defendant's sentence:

(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, before trial or sentencing, failed to comply with the conditions of a sentence involving release into 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 serious bodily injury, or involved the threat of death or serious bodily injury, to another person, and the defendant has previously been convicted of a felony that resulted in death or serious bodily injury;

(12) During the commission of the felony, the defendant intentionally inflicted serious 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) At the time the felony was committed, one (1) of the following classifications was applicable to the defendant:

(A) Released on bail or pretrial release, if the defendant is ultimately convicted of the prior misdemeanor or felony;

(B) Released on parole;

(C) Released on probation;

(D) On work release;

(E) On community corrections;

(F) On some form of judicially ordered release;

(G) On any other type of release into the community under the direct or indirect supervision of any state or local governmental authority or a private entity contracting with the state or a local government;

(H) On escape status; or

(I) Incarcerated in any penal institution on a misdemeanor or felony charge or a misdemeanor or felony conviction;

(14) The defendant abused a position of public or private trust, or used a professional license in a manner that significantly facilitated the commission or the fulfillment of the offense;

(15) The defendant committed the offense on the grounds or facilities of a pre-kindergarten through grade twelve (pre-K-12) public or private institution of learning when minors were present;

(16) The defendant was adjudicated to have committed a delinquent act or acts as a juvenile that would constitute a felony if committed by an adult;

(17) The defendant intentionally selected the person against whom the crime was committed or selected the property that was damaged or otherwise affected by the crime, in whole or in part, because of the defendant's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry or gender of that person or the owner or occupant of that property; however, this subdivision (17) should not be construed to permit the enhancement of a sexual offense on the basis of gender selection alone;

(18) The offense was an act of terrorism or was related to an act of terrorism;

(19) If the defendant is convicted of the offense of aggravated assault pursuant to § 39-13-102, the victim of the aggravated assault was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, a state registered security guard/officer, an employee of the department of correction or the department of children's services, a uniformed member of the armed forces or national guard, an emergency medical or rescue worker, emergency medical technician or paramedic, whether compensated or acting as a volunteer; provided, that the victim was performing an official duty and the defendant knew or should have known that the victim was such an officer or employee;

(20) If the defendant is convicted of the offenses of rape pursuant to § 39-13-503, sexual battery pursuant to § 39-13-505 or rape of a child pursuant to § 39-13-522, the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance or controlled substance analogue;

(21) If the defendant is convicted of the offenses of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, rape of a child pursuant to § 39-13-522 or statutory rape pursuant to § 39-13-506, the defendant knew or should have known that, at the time of the offense, the defendant was HIV positive;

(22)(A) If the defendant is convicted of the offenses of aggravated arson pursuant to § 39-14-302 or vandalism pursuant to § 39-14-408, the damage or destruction was caused to a structure, whether temporary or permanent in nature, used as a place of worship and the defendant knew

or should have known that it was a place of worship;

(B) As used in subdivision (22)(A), "place of worship" means any structure that is:

(i) Approved, or qualified to be approved, by the state board of equalization for property tax exemption pursuant to § 67-5-212, based on ownership and use of the structure by a religious institution; and

(ii) Utilized on a regular basis by a religious institution as the site of congregational services, rites or activities communally undertaken for the purpose of worship;

(23) The defendant is an adult and sells to or gives or exchanges a controlled substance, controlled substance analogue or other illegal drug with a minor;

(24) The offense involved the theft of property and, as a result of the manner in which the offense was committed, the victim suffered significant damage to other property belonging to the victim or for which the victim was responsible;

(25)(A) The defendant commits an offense:

(i) During the time period between the first occurrence of events or conduct that later results in a declaration of a state of emergency by a county, the governor, or the president of the United States and the time the county, governor, or the president of the United States terminates the state of emergency, as provided in § 58-2-107;

(ii) Within the area or areas threatened by the emergency, as established by the county's, governor's, or president's declaration of a state of emergency; and

(iii) Knowing of the existence of the emergency;

(B) As used in this subdivision (25):

(i) "Emergency" means an occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, that results or may result in substantial injury or harm to the population, or substantial damage to or loss of property; provided, that natural threats may include disease outbreaks and epidemics; and

(ii) "Offense" means the defendant is convicted of a violation of § 39-14-103, § 39-14-104, § 39-14-408, or any other offense involving theft or vandalism that is graded by value pursuant to § 39-14-105, and the value of the property or service taken or property damaged is no greater than the value provided in § 39-14-105 for a Class E felony;

(26) The defendant committed the offense of robbery pursuant to § 39-13-401, aggravated robbery pursuant to § 39-13-402, or especially aggravated robbery pursuant to § 39-13-403, on the premises of a licensed pharmacy in an effort to unlawfully obtain, sell, give, or exchange a controlled substance, controlled substance analogue, or other illegal drug;

(27) The defendant commits a violent offense, as classified in § 40-35-120(b), against a uniformed law enforcement officer or uniformed member of the armed forces or national guard; and the defendant intentionally selected the person against whom the crime was committed, in whole or in part, because of the person's status as a law enforcement officer or member of the armed forces or national guard; and

(28) At the time the instant offense was committed, the defendant was illegally or unlawfully in the United States.

40-35-313. Probation — Conditions — Discharge and dismissal — Expunction from official records — Fee.

(a)(1)(A) The court may defer further proceedings against a qualified defendant and place the defendant on probation upon such reasonable conditions as it may require without entering a judgment of guilty and with the consent of the qualified defendant. The deferral shall be for a period of time not less than the period of the maximum sentence for the misdemeanor with which the person is charged or not more than the period of the maximum sentence of the felony with which the person is charged. The deferral is conditioned upon the defendant paying an amount to be determined by the court of not less than ten dollars ($10.00) nor more than thirty-five dollars ($35.00) per month as part payment of expenses incurred by the agency, department, program, group or association in supervising the defendant, and upon the defendant paying any or all additional costs of the defendant's supervision, counseling or treatment in a specified manner, based upon the defendant's ability to pay. The payments shall be made to the clerk of the court in which proceedings against the defendant were pending, who shall send the payments to the agency, department, program, group or association responsible for the supervision of the defendant, unless the defendant is found to be indigent and without anticipated future funds with which to make the payment. The clerk of the court collecting the payment is permitted to retain five percent (5%) of the proceeds collected for the handling and receiving of the proceeds as provided in this subdivision (a)(1)(A).

(B)(i) As used in this subsection (a), "qualified defendant" means a defendant who:

(a) Is found guilty of or pleads guilty or nolo contendere to the offense for which deferral of further proceedings is sought;

(b) Is not seeking deferral of further proceedings for any offense committed by any elected or appointed person in the executive, legislative or judicial branch of the state or any political subdivision of the state, which offense was committed in the person's official capacity or involved the duties of the person's office;

(c) Is not seeking deferral of further proceedings for a sexual offense, a violation of § 39-15-502, § 39-15-508, § 39-15-511, or § 39-15-512, driving under the influence of an intoxicant as prohibited by § 55-10-401, vehicular assault under § 39-13-106 prior to service of the minimum sentence required by § 39-13-106, or a Class A or B felony;

(d) Has not previously been convicted of a felony or a Class A misdemeanor for which a sentence of confinement is served; and

(e) Has not previously been granted judicial diversion under this chapter or pretrial diversion.

(ii) As used in subdivision (a)(1)(B)(i)*(c)*, "sexual offense" means conduct that constitutes:

(a) Aggravated prostitution, as described in § 39-13-516;

(b) Aggravated rape, as described in § 39-13-502;

(c) Aggravated sexual battery, as described in § 39-13-504;

(d) Aggravated sexual exploitation of a minor, as described in § 39-17-1004;

(e) Attempt, as described in § 39-12-101, solicitation, as described in § 39-12-102 or conspiracy, as described in § 39-12-103, to commit any of the offenses enumerated in this subdivision (a)(1)(B)(ii);

(f) Especially aggravated sexual exploitation of a minor, as described in § 39-17-1005;

(g) Rape, as described in § 39-13-503;

(h) Rape of a child, as described in § 39-13-522;

(i) Sexual battery by an authority figure, as described in § 39-13-527;

(j) Sexual exploitation of a minor, as described in § 39-17-1003;

(k) Statutory rape by an authority figure, as described in § 39-13-532;

(l) Incest, as described in § 39-15-302;

(m) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability, as described in § 39-13-514(b)(3);

(n) Promoting the prostitution of a minor, as described in § 39-13-515(c)(1); or

(o) Continuous sexual abuse of a child, as described in § 39-13-518.

(iii)*(a)* As used in this subsection (a), "reasonable conditions" includes, but is not limited to, the use of a transdermal monitoring device or other alternative monitoring device for all qualified defendants granted deferral pursuant to this section on or after July 1, 2014, if the court determines that the defendant's use of alcohol or drugs was a contributing factor in the defendant's unlawful conduct. If the court requires a qualified defendant to use a transdermal monitoring device or other alternative monitoring device on or after July 1, 2016, as a condition of the defendant's release, and the court determines the defendant is indigent, the court shall order that the portion of the costs of the device that the person is unable to pay be paid by the electronic monitoring indigency fund, established in § 55-10-419. "Transdermal monitoring device" means any device or instrument that is attached to the person, designed to automatically test the alcohol or drug content in a person by contact with the person's skin at least once per one-half (½) hour regardless of the person's location, and which detects the presence of alcohol or drugs and tampering, obstructing, or removing the device.

(b) As used in this subsection (a), "reasonable conditions" also includes, but is not limited to, the requirement that a qualified defendant serve a period or periods of confinement in the local jail or workhouse not to exceed a total of thirty (30) days.

(2) The provisions of this subsection (a) relative to the payment of a supervision fee shall not apply to any person subject to chapter 28, part 2 of this title. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. If, during the period of probation, the person does not violate any of the conditions of the probation, then upon expiration of the period, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection (a) is without court adjudication of guilt, but a nonpublic record of the discharge and dismissal is retained by the court solely for the purpose of use by the courts in determining whether or not, in

subsequent proceedings, the person qualifies under this subsection (a) or for the limited purposes provided in subsections (b) and (c). The discharge and dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose, except as provided in subsections (b) and (c). Discharge and dismissal under this subsection (a) may occur only once with respect to any person.

(3)(A) No order deferring further proceedings and placing the defendant on probation as authorized by this subsection (a) may be entered by the court on or after July 1, 1998, unless there is attached to it a certificate from the Tennessee bureau of investigation stating that the defendant does not have a prior felony or Class A misdemeanor conviction. No order deferring further proceedings and placing the defendant on probation as authorized by this subsection (a) may be entered by the court if the defendant was charged with a violation of a criminal statute the elements of which constitute abuse, neglect or misappropriation of the property of a vulnerable person as defined in § 68-11-1002 on or after July 1, 2004, and prior to July 1, 2018, or charged with a violation of § 39-15-507 on or after January 1, 2019, or § 39-15-510 on or after July 1, 2019, unless the order contains a provision that the defendant agrees without contest or any further notice or hearing that the defendant's name shall be permanently placed on the registry governed by § 68-11-1003 a copy of which shall be forwarded to the department of health.

(B) The certificate provided by the bureau pursuant to subdivision (a)(3)(A) is only a certification that according to its expunged criminal offender and pretrial diversion database the defendant is not disqualified from deferral and probation under this section by virtue of a prior felony or Class A misdemeanor conviction. The certificate is not a certification that the defendant is eligible for the deferral and probation, and it shall continue to be the duty of the district attorney general, and judge to make sufficient inquiry into the defendant's background to determine eligibility.

(b) Upon the dismissal of the person and discharge of the proceedings against the person under subsection (a), the person may apply to the court for an order to expunge from all official records, other than the nonpublic records to be retained by the court under subsection (a) and the public records that are defined in § 40-32-101(b), all recordation relating to the person's arrest, indictment or information, trial, finding of guilty and dismissal and discharge pursuant to this section; provided, that no records of a person who is dismissed from probation and whose proceedings are discharged pursuant to this section shall be expunged if the offense for which deferral and probation was granted was a sexual offense as defined by § 40-39-202. Each application shall contain a notation by the clerk evidencing that all court costs are paid in full, prior to the entry of an order of expunction. If the court determines, after hearing, that the person was dismissed and the proceedings against the person discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status the person occupied before the arrest or indictment or information. No person as to whom the order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failures to recite or acknowledge the arrest, or indictment or information, or trial in response to any inquiry made of the person for any purpose, except when the person who

has been availed of the privileges of expunction then assumes the role of plaintiff in a civil action based upon the same transaction or occurrence as the expunged criminal record. In that limited situation, notwithstanding this section or § 40-32-101(a)(3)-(c)(3) to the contrary, the nonpublic records are admissible for the following purposes:

(1) A plea of guilty is admissible into evidence in the civil trial as a judicial admission; and

(2) A verdict of guilty by a judge or jury is admissible into evidence in the civil trial as either a public record or is admissible to impeach the truthfulness of the plaintiff. In addition, the nonpublic records retained by the court, as provided in subsection (a), shall constitute the official record of conviction and are subject to the subpoena power of the courts of civil jurisdiction.

(c) Notwithstanding this section or § 40-32-101(a)(3)-(c)(3) to the contrary, a plea of guilty or a verdict of guilty by a judge or jury for a criminal felony offense involving an act of terrorism or any other felony offense involving violence, coercion, dishonesty or the disruption of the operations of a state or local government is admissible into evidence in a civil action for the purpose of impeaching the truthfulness, veracity or credibility of a witness if the plea or verdict occurred within ten (10) years of the date the evidence is sought to be admitted and the witness is a party to the civil action. The plea or verdict is admissible for the purposes set out in this subsection (c) notwithstanding the fact that the public records of the plea or verdict have been expunged pursuant to this section either prior to or after the commencement of the civil action at which the plea or verdict is sought to be admitted. In addition, the nonpublic records retained by the court, Tennessee bureau of investigation or a local law enforcement agency shall constitute official records of plea or verdict and are subject to the subpoena power of the courts of civil jurisdiction.

(d)(1) Any court dismissing charges against a person and ordering the expunction of a person's public records following the discharge of proceedings pursuant to this section after October 1, 1998, shall send or cause to be sent a copy of the dismissal and expunction order to the Tennessee bureau of investigation for entry into its expunged criminal offender and pretrial diversion database; provided, however, that the court shall not be required to send to the bureau a copy of any dismissal and expunction order dated on or after July 1, 1999, if the charge dismissed is classified as a Class B or C misdemeanor. The order shall contain the name of the person seeking dismissal and expunction, the person's date of birth and social security number, the offense that was dismissed and the date the dismissal and expunction order is entered.

(2) [Deleted by 2019 amendment.]

40-35-501. Release eligibility status — Calculations.

(a)(1) A felony sentence to the department of correction or to a local jail or workhouse shall be served according to this chapter. An inmate shall not be eligible for parole until reaching the inmate's release eligibility date; provided, that nothing in this section shall be construed as prohibiting the offender, in the discretion of the commissioner or sheriff, from participating in work crews that are under direct guard supervision.

(2) Except for inmates who receive sentences of imprisonment for life without possibility of parole, only inmates with felony sentences of more than two (2) years or consecutive felony sentences equaling a term greater

than two (2) years shall be eligible for parole consideration.

(3) Notwithstanding any other law, inmates with felony sentences of two (2) years or less shall have the remainder of their original sentence suspended upon reaching their release eligibility date. The release shall not occur for sentences of two (2) years or less when the sentences are part of a consecutive sentence whose term is greater than two (2) years. The department of correction shall notify the district attorney general and the appropriate sheriff, jail administrator, workhouse superintendent or warden of the release eligibility date of all felons with sentences of two (2) years or less in the institution.

(4) No inmate shall be released under this section until at least ten (10) days after receipt of all sentencing documents by the department and ten (10) days after the department has sent notice of the release eligibility dates to the district attorney general and the appropriate sheriff, jail administrator, workhouse superintendent or warden.

(5) Suspension of sentence in this manner shall be to probation supervision under terms and conditions established by the department.

(6)(A) The district attorney general or the appropriate sheriff, jail administrator, workhouse superintendent or warden acting through the district attorney general may file a petition with the sentencing court requesting denial of suspension of sentence based on disciplinary violations during time served in the institution. The district attorney general may file a petition with the sentencing court requesting denial of suspension of sentence based on the offender's threat to public safety as indicated by a pattern of prior violent or drug-related criminal behavior evidenced by convictions for at least two (2) crimes against the person or two (2) drug offenses under § 39-17-417. The district attorney general shall promptly send a copy of any petition filed under this subsection (a) to the appropriate sheriff, jail administrator, workhouse superintendent, warden and defense attorney.

(B) The court may deny suspension for the remainder of the sentence or any portion of the sentence after a hearing to determine the merits of the petition. The hearing shall be held within twenty (20) days of filing or the petition is deemed to be denied and may be continued by the court for reasonable cause. The inmate may petition the court for review of the denial of probation after sixty (60) days have elapsed since a hearing denying release under this subsection (a). There shall be no appeal from a court order or judgment under this subsection (a). Upon denial of suspension of sentence the clerk of the court shall promptly notify the department.

(7)(A) For those individuals placed on probation pursuant to subdivision (a)(3), the court is authorized to revoke probation pursuant to the revocation proceedings of § 40-35-311. If the sentencing court revokes probation, the sentencing court may cause the defendant to commence the execution of the judgment as originally entered, less any credit for time served, plus any sentence credits earned and retained by the inmate. Any defendant who has been placed on probation pursuant to subdivision (a)(3), and whose probation is subsequently revoked on the same sentence, is no longer eligible for release on probation pursuant to subdivision (a)(3). However, a defendant who is placed on probation pursuant to § 40-35-303, § 40-35-306, or § 40-35-307, and whose probation is revoked pursuant to § 40-35-311, shall not be ineligible for release on that sentence pursuant

to subdivision (a)(3).

(B) Nothing in subdivision (a)(7)(A) prohibits the sentencing court from:

(i) Suspending the original sentence at any time prior to its expiration, notwithstanding whether the offender is incarcerated in a local jail or a prison; or

(ii) Resentencing the defendant for the remainder of the unexpired sentence to any community-based alternative to incarceration authorized by chapter 36 of this title; provided, that the violation of probation is a technical one and does not involve the commission of a new offense.

(b) Release eligibility for each defendant sentenced as an especially mitigated offender shall occur after service of either twenty percent (20%) or thirty percent (30%) of the actual sentence imposed, less sentence credits earned and retained by the defendant. The percentage of service shall be stated on the judgment order. If the order is silent, release eligibility shall occur after service of twenty percent (20%) of the actual sentence imposed.

(c) Release eligibility for each defendant sentenced as a Range I standard offender shall occur after service of thirty percent (30%) of the actual sentence imposed less sentence credits earned and retained by the defendant.

(d) Release eligibility for each defendant sentenced as a Range II multiple offender shall occur after service of thirty-five percent (35%) of the actual sentence imposed less sentence credits earned and retained by the defendant.

(e) Release eligibility for each defendant sentenced as a Range III persistent offender shall occur after service of forty-five percent (45%) of the actual sentence imposed less sentence credits earned and retained by the defendant.

(f) Release eligibility for each defendant sentenced as a career offender shall occur after service of sixty percent (60%) of the actual sentence imposed less sentence credits earned and retained by the defendant.

(g) There shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without parole as a repeat violent offender.

(h)(1) Release eligibility for a defendant committing the offense of first degree murder on or after November 1, 1989, but prior to July 1, 1995, who receives a sentence of imprisonment for life occurs after service of sixty percent (60%) of sixty (60) years less sentence credits earned and retained by the defendant, but in no event shall a defendant sentenced to imprisonment for life be eligible for parole until the defendant has served a minimum of twenty-five (25) full calendar years of the sentence, notwithstanding the governor's power to reduce prison overcrowding pursuant to title 41, chapter 1, part 5, any sentence reduction credits authorized by § 41-21-236, or any other provision of law relating to sentence credits.

(2) There shall be no release eligibility for a person committing first degree murder, on or after July 1, 1995, and receiving a sentence of imprisonment for life. The person shall serve one hundred percent (100%) of sixty (60) years less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236 or any other law, shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

(3) There shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without possibility of parole for first degree murder or aggravated rape of a child.

(i)(1) There shall be no release eligibility for a person committing an offense, on or after July 1, 1995, that is enumerated in subdivision (i)(2). The person

shall serve one hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236 or any other provision of law, shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

(2) The offenses to which subdivision (i)(1) applies are:

(A) [Deleted by 2020 amendment.]

(B) Murder in the second degree;

(C) Especially aggravated kidnapping;

(D) Aggravated kidnapping;

(E) Especially aggravated robbery;

(F) Aggravated rape;

(G) Rape;

(H) Aggravated sexual battery;

(I) Rape of a child;

(J) Aggravated arson;

(K) Aggravated child abuse;

(L) [Deleted by 2019 amendment.]

(M) Sexual exploitation of a minor involving more than one hundred (100) images;

(N) Aggravated sexual exploitation of a minor involving more than twenty-five (25) images; or

(O) Especially aggravated sexual exploitation of a minor.

(3) Nothing in this subsection (i) shall be construed as affecting, amending or altering § 39-13-523, which requires child sexual predators, aggravated rapists, child rapists and multiple rapists to serve the entire sentence imposed by the court undiminished by any sentence reduction credits.

(j) There shall be no release eligibility for a person committing a violation of § 39-17-1324(a) or (b) on or after January 1, 2008, until the person has served one hundred percent (100%) of the minimum mandatory sentence established in § 39-17-1324(g) or (h) and imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by § 41-21-236 or any other law shall operate to reduce the mandatory minimum sentence imposed by the court by more than fifteen percent (15%).

(k)(1) There shall be no release eligibility for a person committing aggravated robbery, as defined in § 39-13-402(a)(1), on or after July 1, 2010, until the person has served eighty-five percent (85%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other provision of law, shall operate to reduce below seventy percent (70%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(2) There shall be no release eligibility for a person committing aggravated robbery, as defined in § 39-13-402, on or after January 1, 2008, if the person has at least one (1) prior conviction for aggravated robbery, as defined in § 39-13-402, or especially aggravated robbery, as defined in § 39-13-403. The person shall serve one hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by § 41-21-236 or any other provision of law shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

(3)(A) "Prior conviction" means, for purposes of this section, unless the context otherwise requires, that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of an aggravated robbery or especially aggravated robbery prior to or at the time of committing an aggravated robbery on or after January 1, 2008.

(B) "Prior conviction" includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute the offense of aggravated robbery. If an offense involving a robbery accomplished by use of a firearm in a jurisdiction other than this state is not identified as aggravated robbery or especially aggravated robbery in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for aggravated robbery or especially aggravated robbery.

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

(A) On probation, parole or community correction supervision for an aggravated robbery or especially aggravated robbery;

(B) Incarcerated for an aggravated robbery or especially aggravated robbery;

(C) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for an aggravated robbery or especially aggravated robbery; or

(D) On escape status from any correctional institution when incarcerated for an aggravated robbery or especially aggravated robbery.

(5) There shall be no release eligibility for a person committing attempted first degree murder as defined in § 39-13-202 where the victim suffers serious bodily injury as defined in § 39-11-106, on or after July 1, 2013, until the person has served eighty-five percent (85%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other provision of law, shall operate to reduce below seventy-five percent (75%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(6)(A) There shall be no release eligibility for a person committing aggravated child neglect or endangerment as defined in § 39-15-402, on or after July 1, 2013, and before July 1, 2014, until the person has served seventy percent (70%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other provision of law, shall operate to reduce below fifty-five percent (55%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(B) There shall be no release eligibility for a person committing aggravated child neglect or endangerment as defined in § 39-15-402, on or after July 1, 2014, until the person has served eighty-five percent (85%) of the sentence imposed by the court, less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any

other law, shall operate to reduce below seventy percent (70%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(7) There shall be no release eligibility for a person committing aggravated assault as defined in § 39-13-102, that results in death of another, on or after July 1, 2013, until the person has served seventy-five percent (75%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other provision of law, shall operate to reduce below sixty percent (60%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(8)(A) There shall be no release eligibility for a person committing aggravated vehicular homicide, as defined in § 39-13-218(a), on or after July 1, 2015, until the person has served sixty percent (60%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other law, shall operate to reduce below forty-five percent (45%) the percentage of sentence such person must serve before becoming release eligible.

(B) For purposes of determining if conduct occurring on or after July 1, 2015, constitutes a violation of § 39-13-218, and if that violation is governed by this subdivision (k)(8), prior convictions for predicate offenses required by § 39-13-218 may be used regardless of when they occurred.

(*l*)(1) There shall be no release eligibility for a person committing continuous sexual abuse of a child as defined in § 39-13-518 on or after July 1, 2014, until the person has served the entire sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. Such person shall be permitted to earn any credits for which the person is eligible and the 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.

(2) In addition to the punishment authorized by this section, a person sentenced under § 39-13-518 shall, upon release, receive a sentence of community supervision for life pursuant to § 39-13-524.

(m) The release eligibility date provided for in this section is separately calculated for each offense for which a defendant is convicted. For consecutive sentences, the periods of ineligibility for release are calculated for each sentence and are added together to determine the release eligibility date for the consecutive sentences.

(n) The release eligibility date provided for in this section is the earliest date an inmate convicted of a felony is eligible for parole. The date is conditioned on the inmate's good behavior while in prison. For a violation of any of the rules of the department of correction or institution in which the inmate is incarcerated or while on any release program other than parole, the commissioner or the commissioner's designees may defer the release eligibility date so as to increase the total amount of time an inmate must serve before becoming eligible for parole. This increase may, in the discretion of the commissioner, be in any amount of time not to exceed the full sentence originally imposed by the court and shall be imposed pursuant to regulations promulgated by the commissioner that give notice of the length of discretionary increases that may be imposed for a violation of each of the rules of the department or institution.

(o)(1) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as "close custody". The decertification shall continue for the duration of the classification and for a period of one (1) year thereafter.

(2) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as "maximum custody". The decertification shall continue for the duration of the classification and for a period of two (2) years thereafter.

(p) Extensions in the release eligibility date provided for in this section and in other sections of this chapter shall only be imposed following a hearing conducted in accordance with due process of law.

(q) Notwithstanding any other provision of this chapter relating to release eligibility and when acting pursuant to the Tennessee Contract Sentencing Act of 1979, compiled in chapter 34 of this title, the board of parole is authorized to grant a prisoner parole as specified in a sentence agreement entered into by the prisoner and the board. In granting the parole, the board may impose any conditions and limitations that the board deems necessary.

(r) Notwithstanding any other law to the contrary, the department is responsible for calculating the sentence expiration date and the release eligibility date of any felony offender sentenced to the department and any felony offender sentenced to confinement in a local jail or workhouse for one (1) or more years.

(s) To assist the department in fulfilling the duty specified in subsection (p), the clerk of the court shall send a copy of each judgment document for a felony conviction to the department. These copies shall be forwarded to the department no less than one (1) time each month so that all judgments rendered in one (1) calendar month have been received by the department by the fifteenth day of the following month.

(t) There shall be no release eligibility for a person committing the offense of carjacking under § 39-13-404, on or after July 1, 2016, until such person has served seventy-five percent (75%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236 or any other law, shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

(u)(1) For the offenses listed in subdivision (u)(2) committed on or after January 1, 2017, there shall be no release eligibility until the person has served eighty-five percent (85%) of the sentence imposed by the court, less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other law, shall operate to reduce below seventy percent (70%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(2) The offenses to which this subsection (u) is applicable are:

(A) The manufacture, delivery, or sale of a controlled substance, pursuant to § 39-17-417, where the instant offense is classified as a Class A, B, or C felony and the person has two (2) or more prior convictions for the manufacture, delivery, or sale of a controlled substance classified as a Class A, B, or C felony, pursuant to § 39-17-417, prior to or at the time of

committing the instant offense; and

(B) Aggravated burglary, pursuant to § 39-14-403, or especially aggravated burglary, pursuant to § 39-14-404, if the person has two (2) or more prior convictions for either aggravated burglary, pursuant to § 39-14-403, especially aggravated burglary, pursuant to § 39-14-404, or a combination of the two (2) offenses prior to or at the time of committing the instant offense.

(3) For purposes of this subsection (u):

(A)(i) "Prior conviction" means, unless the context otherwise requires, that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B);

(ii) "Prior conviction" includes convictions under the laws of any other state, government, or country that, if committed in this state, would constitute the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B). If a relevant offense in a jurisdiction other than this state is not identified as the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B) in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements in this state; and

(B) "Separate period of incarceration or supervision" includes a sentence to any of the sentence alternatives set out in § 40-35-104(c)(3)-(9). The applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B) shall be considered as having been committed after a separate period of incarceration or supervision if it is committed while the person was:

(i) On probation, parole, community correction supervision, or supervised release for the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B);

(ii) Incarcerated for the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B);

(iii) Assigned to a program where the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, education release, restitution release, or medical furlough for the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B); or

(iv) On escape status from any correctional institution when incarcerated for the applicable offense listed in subdivision (u)(2)(A) or (u)(2)(B).

(4) For purposes of this subsection (u), a prior conviction shall not be considered if ten (10) or more years have elapsed between the date of the instant conviction and the date of any immediately preceding conviction for the relevant offense. If, however, the date of a prior conviction is within ten (10) years of the date of the instant conviction, and the instant conviction is for an offense that occurs on or after January 1, 2017, then every conviction for such offense occurring within ten (10) years of the date of the immediately preceding conviction shall be considered in determining the number of prior offenses. However, in no event shall a conviction occurring more than twenty (20) years from the date of the instant conviction be considered a prior offense for the purposes of this subsection (u).

(v) There shall be no release eligibility for a person committing the offense of driving under the influence, as defined in § 55-10-401, on or after January 1, 2019, if the person has at least six (6) prior convictions for driving under the influence, as determined under § 55-10-405. The person shall serve one

hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by § 41-21-236 or any other law shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

(w) Notwithstanding this section, a defendant sentenced under this chapter shall be authorized to earn and retain any sentence reduction credits authorized by § 41-21-236 or any other provision of law relating to sentence reduction credits. However, no sentence reduction credits earned or retained by a defendant sentenced for committing a Class A, B, or C felony against a person under title 39, chapter 13, shall operate to permit the defendant's release on parole, probation, or community correction supervision until the defendant has served the applicable percentage of the actual sentence imposed, as specified in subsections (b)-(f) and without consideration of sentence credits earned and retained by the defendant. Any sentence reduction credits earned and retained during that time shall be credited towards the defendant's expiration of sentence.

40-38-601. Part definitions.

As used in this part:

(1) "Address confidentiality program" or "program" means the program created under this part to protect the confidentiality of the confidential address of a relocated victim of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense;

(2) "Administrator of elections" means the chief county election administrative officer appointed by the county election commission and such official's designee or designees;

(3) "Application" means the form or forms submitted, in the manner prescribed by the secretary of state, by an individual requesting certification for the address confidentiality program;

(4) "Application assistant" means an employee or volunteer at an agency or organization that serves victims of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense, who has received training and certification from the secretary of state to help individuals complete applications to be program participants;

(5) "Confidential address" means the actual address of a program participant's residence, school, institution of higher education, business, or place of employment, as specified on an application to be a program participant or on a notice of change of address filed under this part;

(6) "Coordinator of elections" means the official appointed by the secretary of state in accordance with § 2-11-201 as the chief administrative election officer of the state and such official's designee or designees;

(7) "Domestic abuse" has the same meaning as defined in § 36-3-601;

(8) "Domestic abuse victim" has the same meaning as defined in § 36-3-601;

(9) "Fiduciary" has the same meaning as defined in § 34-1-101;

(10) "Governmental entity" means the state, a political subdivision of the state, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision of the state;

(11) "Human trafficking" has the same meaning as used in § 39-13-314;

(12) "Minor" has the same meaning as defined in § 34-1-101;

(13) "Parent" includes biological and adoptive parents, as defined in § 36-1-102;

(14) "Person with a disability" has the same meaning as defined in § 34-1-101;

(15) "Process" means judicial process and all orders, demands, notices, or other papers required or permitted by law to be served on a program participant;

(16) "Program participant" means a person who is certified by the secretary of state as a program participant;

(17) "Secretary of state" or "secretary" means the secretary of state of Tennessee and any designee of the secretary;

(18) "Sexual offender" has the same meaning as defined in § 40-39-202;

(19) "Sexual offense" means a sexual offense or violent sexual offense as defined in § 40-39-202;

(20) "Stalking" has the same meaning as defined in § 39-17-315; and

(21) "Substitute address" means an address designated by the secretary of state under the address confidentiality program that is used instead of a confidential address as set forth by this part.

40-38-602. Crime victim address confidentiality program.

(a) The secretary of state shall establish a crime victim address confidentiality program, which must be open to all Tennessee residents who are victims of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense who satisfy the requirements of this part, at no cost to the program participant.

(b) This program shall provide the participant with the use of a substitute address for the participant and the participant's minor children and shall not disclose the participant's name, confidential address, phone number, or any other information contained within the program participant's file except as otherwise provided by this part.

(c) Whenever a program participant is required by law to swear to or affirm the participant's address, the participant may use the participant's substitute address. Wherever a program participant is required by law to establish residency, the participant may present evidence of program participation and use the participant's substitute address. Where residency must be verified in order to establish eligibility for public benefits, the governmental entity requiring verification shall submit a written request to the secretary of state, on a form prescribed by the secretary of state, whereby the secretary of state shall provide the governmental entity with a statement as to whether the program participant, or the program participant's minor child, or a person with a disability on whose behalf the person is applying, is eligible for benefits, based on the information known to the secretary of state.

(d) The substitute address shall not be used:

(1) For purposes of listing, appraising, or assessing property taxes and collecting property taxes; or

(2) On any document related to real property recorded with a county clerk and recorder.

(e) Notwithstanding any other applicable law, the substitute address may be used for motor vehicle records and may be printed on a person's driver or photo identification license.

(f) Except as otherwise provided in this part, a program participant's

confidential address, and any other information contained within a program participant's file, maintained by a state or local government agency, or disclosed by the secretary of state under this part, is not a public record. This subsection (f) shall not apply:

(1) To any public record created more than thirty (30) days prior to the date that the program participant applied to be certified in the program; or

(2) If a program participant voluntarily requests that a state or local government agency use the participant's confidential address or voluntarily gives the confidential address to the state or local government agency, except voter registration records and absentee ballot requests shall be confidential for purposes of this part.

(g) For any public record created within thirty (30) days prior to the date that a program participant applied to be certified in the program, a state or local governmental agency shall redact the confidential address from a public record or change the confidential address to the substitute address in the public record, if a program participant presents evidence of program certification and requests the agency that maintains the public record to use the substitute address instead of the confidential address on the public record.

(h) Except as provided in this part, where a program participant has provided evidence of program participation to a governmental entity, any record that includes a program participant's confidential address pursuant to this part shall be confidential and not available for inspection by anyone other than the program participant.

(i) Notwithstanding any other applicable law, documentation concerning any tool of designation or identification or internal processes implemented by a governmental entity in documenting program participation within the governmental entity's records shall be confidential and not available for inspection.

(j) An application or voter registration form completed under this part, along with any supporting materials, is not a public record that is subject to inspection and shall be kept confidential.

40-38-604. Application for substitute address.

(a) Except for a person described in § 40-38-603, an adult person, or a parent or fiduciary acting on behalf of a minor or person with a disability, may apply to the secretary of state with the assistance of an application assistant to have an address designated by the secretary of state serve as the person's substitute address, or the substitute address of the minor or person with a disability on whose behalf the application is filed, where the applicant, or the individual on whose behalf the application is filed, has either relocated to a new residence within the preceding thirty (30) calendar days or presently intends to relocate to a new residence within ninety (90) calendar days from the date of the application. The application shall be made on a form prescribed by the secretary of state and filed in the office of the secretary of state in the manner prescribed by the secretary of state.

(b) The application must contain all of the following:

(1) The mailing address and telephone number or numbers at which the secretary of state may contact the applicant;

(2) The address or addresses of the applicant's residence, school, institution of higher education, business, or place of employment that the applicant

requests not be disclosed for the reason that disclosure will increase the risk that the applicant, or the minor or person with a disability on whose behalf the application is made, will be threatened or physically harmed by another person;

(3) Documentary evidence that, either:

(A) There exists an ongoing criminal case that may result or a criminal case that has resulted in a conviction by a judge or jury or by a defendant's guilty plea, in which the applicant, or the minor or person with a disability on whose behalf the application was filed, was a victim of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense; or

(B) A court of competent jurisdiction has granted an order of protection to the applicant, or the minor or person with a disability on whose behalf the application is made, and which is in effect at the time of application;

(4) In the absence of an ongoing criminal case that may result or has resulted in a conviction or an order of protection granted by a court of competent jurisdiction within this state which is in effect at the time of application, a notarized statement by a licensed professional with knowledge of the circumstances, such as an attorney, social worker, or therapist, confirming that such individual believes that the applicant, or the minor or person with a disability on whose behalf the application is made, is in danger of further harm;

(5) A sworn statement by the applicant that disclosure of the confidential address or addresses would endanger the safety of the applicant or the minor or person with a disability on whose behalf the application is made;

(6)(A) Documentary evidence, in the form and manner prescribed by rule by the secretary of state, that the applicant, or the minor or person with a disability on whose behalf the application is made, has moved to a new residence unknown to the offender within the previous thirty (30) calendar days; or

(B) A sworn statement by the applicant that the applicant, or the minor or person with a disability on whose behalf the application is made, has the present intent to move to a new address unknown to the offender within the following ninety (90) calendar days. If the applicant does not move to a new address within the following ninety (90) calendar days or fails to provide documentary evidence of the new residence address to the secretary of state within this time frame, in the form and manner prescribed by rule by the secretary of state, the program participant's certification shall be cancelled;

(7) A voter registration form to be completed if the applicant is eligible to vote and wishes to register to vote or update a current voter registration;

(8) A sworn statement that the program participant understands all of the following:

(A) That during the time the program participant chooses to have a confidential voter registration record, the program participant may vote only by absentee ballot;

(B) That the program participant may provide a program participant identification number instead of the residence address on an application for an absentee ballot or on an absentee voter's ballot identification envelope statement of voter with the applicant's signature;

(C) That casting any ballot in person will reveal the program participant's precinct and residence address to precinct election officials and employees of the county election commission and may reveal the program participant's precinct or residence address to members of the public; and

(D) That if the program participant signs an election petition, the program participant's residence address will be made available to the public;

(9) A knowing and voluntary designation of the secretary of state as the agent for the purposes of receiving service of process and the receipt of mail;

(10) A knowing and voluntary release and waiver of all future claims against the state for any claim that may arise from participation in the address confidentiality program, except for a claim based on the performance or nonperformance of a public duty that was manifestly outside the scope of the officer's or employee's office or employment or in which the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner;

(11) The notarized signature of the applicant, the name and notarized signature of the application assistant who assisted the applicant, and the date on which the applicant and the application assistant signed the application; and

(12) If at the time of application, the applicant, or the minor or person with a disability on whose behalf the application is made, is subject to a court order or is involved in court action related to the dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time, the name of the court, contact information for the court, and the case number associated with those proceedings.

(c) Upon receiving a properly completed application under subsection (a), the secretary of state shall:

(1) Certify the applicant, or the minor or person with a disability on whose behalf the application is filed, as a program participant and provide evidence of such certification to the program participant;

(2) Designate each eligible address listed in the application as a confidential address;

(3) Issue the program participant a unique substitute address;

(4) Issue the program participant a unique program participant identification number;

(5) Provide information to the program participant concerning the manner in which the program participant may use the secretary of state as the program participant's agent for the purposes of receiving mail and receiving service of process;

(6) Provide information to the program participant concerning the process to vote as a program participant, if the program participant is eligible to vote; and

(7) Forward all first class mail, legal documents, and certified mail received by the secretary of state to the program participant.

40-38-608. Cancellation of program participant's certification — Notice of cancellation — Request to withdraw from program — Responsibility to notify others that substitute address is no longer valid.

(a) The secretary of state shall cancel the certification of a program

participant if any of the following are true:

(1) The program participant's application contained one or more false statements;

(2) The program participant failed to relocate to a new address or failed to provide documentary evidence of the new residence address to the secretary of state, in the form and manner prescribed by the secretary of state, within ninety (90) days from the date of application, unless the secretary of state determines that the program participant is currently residing at a shelter, as defined by § 71-6-202, or a similar facility;

(3) The program participant obtains a name change, unless the program participant provides the secretary of state with documentation of a legal name change within ten (10) business days of the name change;

(4) The program participant's certification has expired and the program participant has not renewed the certification in accordance with § 40-38-605;

(5) The program participant is found by the secretary of state, after proper notice, to be unreachable for a period of twenty (20) days or more, as defined by rules promulgated by the secretary of state;

(6) The secretary of state becomes aware that circumstances have changed such that the participant no longer meets the criteria set forth under this part that would allow participation in the program; or

(7) The participant submits to the secretary of state a written, notarized request to cease being a program participant on a form prescribed by the secretary of state.

(b) The secretary of state shall send notice of certification cancellation to the program participant setting out the reasons for cancellation. The program participant has the right to appeal the cancellation and request, within thirty (30) days from the date of the notice of cancellation, a contested case hearing before an administrative law judge, in accordance with rules promulgated by the secretary of state and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) A program participant may request to withdraw the program participant's participation in the program by submitting a written, notarized request, on a form prescribed by the secretary of state that includes all of the following:

(1) The person's program participant identification number;

(2) A statement that the participant wishes to cease being a program participant;

(3) An acknowledgement that by withdrawing their participation, the person's address will no longer be kept confidential, the secretary of state will no longer accept or process mail received on the person's behalf, and the person's voter registration will no longer be kept confidential; and

(4) A statement that the administrator of elections will either:

(A) Treat the person's existing voter registration form in the same manner as other voter registration forms; or

(B) Purge the participant's voter registration.

(d) If an individual ceases to be a program participant, by reason of either cancellation or withdrawal, it shall be the responsibility of the individual to notify persons and entities that use the substitute address that the substitute address is no longer valid.

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

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

(b) The general assembly finds and declares that:

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

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

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

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

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

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

(7) The offender is subject to specified terms and conditions that are implemented at sentencing or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain one hundred dollars ($100) of these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year, with the remaining fifty dollars ($50.00) of fees to be remitted to the state treasury to be deposited into the general fund of the state; provided, that a juvenile offender required to register under this part shall not be required to pay the administrative fee until the offender reaches eighteen (18) years of age; and

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

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

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

(b)(1) Violent sexual offenders shall report in person during the months of March, June, September, and December of each calendar year, to the designated law enforcement agency, on a date established by such agency, to update the offender's fingerprints, palm prints and photograph, as determined necessary by the agency, and to verify the continued accuracy of the information in the TBI registration form. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from the in-person reporting and fingerprinting, as otherwise provided by this part. At the time of the violent offender's initial registration or initial reporting date for the calendar year, the violent sexual offender shall pay the specified administrative costs, not to exceed one hundred fifty dollars ($150), one hundred dollars ($100) of which shall be retained by the designated law enforcement agency to be used for the purchase of equipment, to defray personnel and maintenance costs and any other expenses incurred as a result of the implementation of this part. The remaining fifty dollars ($50.00) shall be remitted by the registering agency to the state treasury to be deposited into the general fund of the state. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from paying the administrative cost as otherwise provided by this part.

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

(c) Once a year, all sexual offenders shall report in person, no earlier than seven (7) calendar days before and no later than seven (7) calendar days after the offender's date of birth, to the designated law enforcement agency to

update the offender's fingerprints, palm prints and photograph, as determined necessary by the agency, to verify the continued accuracy of the information in the TBI registration form and to pay the specified administrative costs, not to exceed one hundred fifty dollars ($150), one hundred dollars ($100) of which shall be retained by the designated law enforcement agency to be used for the purchase of equipment, to defray personnel and maintenance costs and any other expenses incurred as a result of the implementation of this part. The remaining fifty dollars ($50.00) shall be submitted by the registering agency to the state treasury to be deposited in the general fund of the state. Offenders whose initial registration occurs after the annual reporting period shall be required to pay the administrative costs at the time of the initial registration. Offenders who reside in nursing homes and assisted living facilities and offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities are exempt from the in-person reporting and fingerprinting and administrative cost as otherwise provided by this part. However, if an offender is released or discharged from a nursing home, assisted living facility or mental health institution or is no longer continuously confined to home or a health care facility due to mental or physical disabilities, the offender shall, within forty-eight (48) hours, register in person with the designated law enforcement agency, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3). If the offender has previously registered prior to the release or discharge, the offender shall, within forty-eight (48) hours, report in person to the designated law enforcement agency and update all information pursuant to this section.

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

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

(f) Offenders who reside in nursing homes and assisted living facilities and

offenders committed to mental health institutions or continuously confined to home or health care facilities due to mental or physical disabilities shall be exempted from the in-person reporting, fingerprinting and administrative cost requirements; however, it shall be the responsibility of the offender, the offender's guardian, the person holding the offender's power of attorney or, in the absence thereof, the administrator of the facility, to report any changes in the residential status to TBI headquarters in Nashville by United States postal service. Further, if an offender is released or discharged from a nursing home, assisted living facility, mental health institution or is no longer continuously confined to home or a health care facility due to mental or physical disabilities, the offender shall, within forty-eight (48) hours, register in person with the designated law enforcement agency, completing and signing a TBI registration form, under penalty of perjury, pursuant to § 39-16-702(b)(3). If the offender has previously registered prior to the release or discharge, the offender shall, within forty-eight (48) hours, report in person to the designated law enforcement agency and update all information pursuant to this section.

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

(h) Each offender shall report to the designated law enforcement agency at least twenty-one (21) days before traveling out of the country; provided, that offenders who travel out of the country frequently for work or other legitimate purpose, with the written approval of the designated law enforcement agency, and offenders who travel out of the country for emergency situations shall report to the designated law enforcement agency at least twenty-four (24) hours before traveling out of the country.

40-39-211. Residential and work restrictions.

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

(2) For purposes of this subsection (a), "playground" means any indoor or outdoor facility that is intended for recreation of children and owned by the state, a local government, or a not-for-profit organization, and includes any parking lot appurtenant to the indoor or outdoor facility.

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

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

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

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

(c)(1) While mandated to comply with the requirements of this part, no sexual offender or violent sexual offender, whose victim was a minor, shall knowingly reside or conduct an overnight visit at a residence in which a minor resides or is present. Notwithstanding this subsection (c), the offender may reside, conduct an overnight visit, or be alone with a minor if the offender is the parent of the minor, unless:

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

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

(C) The offender has been convicted of a sexual offense or violent sexual offense and the following conditions have been satisfied:

(i) The victim of the sexual offense or violent sexual offense was a minor twelve (12) years of age or less; and

(ii) A circuit court, exercising its jurisdiction over civil matters, has found by clear and convincing evidence that the offender presents a danger of substantial harm to the minor.

(2) For purposes of subdivision (c)(1)(C):

(A) The district attorney general for the judicial district in which the minor resides may petition the court to make a finding described in subdivision (c)(1)(C)(ii) at any time the offender is required to register pursuant to this part;

(B) The offender must be provided notice and an opportunity to be heard;

(C) When determining whether the offender poses a danger of substantial harm to a minor, the court may consider the facts and circumstance of the offense, the offender's most recent efforts to rehabilitate, compliance with community supervision as provided in § 39-13-524 if applicable, any violations of this part as specified in § 40-39-208, and other relevant evidence;

(D) All files and records of the court in the proceeding must be treated as confidential and shall not be open to the public or disclosed to the public, but are open to:

(i) The judge, officers, and professional staff of the court;

(ii) The parties to the proceeding and their counsel and representatives;

(iii) Any parent or legal guardian of the minor other than the offender;

(iv) The offender's registering agency; and

(v) With permission of the court, any other person or agency having a legitimate interest in the proceeding;

(E) The court must enter a written order stating its findings. If the court finds that the offender presents a danger of substantial harm to the minor, the district attorney general shall provide the court's finding to the

offender's registering agency;

(F) No sooner than two (2) years after the date of entry of the circuit court's order, the offender may petition the court for reconsideration of a finding that the offender presents a danger of substantial harm to the minor. The offender must show, by clear and convincing evidence, that the offender no longer presents a danger of substantial harm to the minor; and

(G) An appeal from a final order or judgment under subdivision (c)(1)(C)(ii) may be made to the court of appeals. A finding that the offender presents a danger of substantial harm to the minor shall remain in effect pending the outcome of the appeal.

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

(A) Be upon or remain on the premises of any building or grounds of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when the offender has reason to believe children under eighteen (18) years of age are present;

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

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

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

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

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

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

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

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

(e) Changes in the ownership or use of property within one thousand feet

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

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

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

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

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

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

(h)(1)(A) While mandated to comply with the requirements of this part, it is an offense for three (3) or more sexual offenders, as defined in § 40-39-202, or violent sexual offenders, as defined in § 40-39-202, or a combination thereof, to establish a primary or secondary residence together or inhabit the same primary or secondary residence at the same time.

(B) Each sexual offender or violent sexual offender who establishes or inhabits a primary or secondary residence in violation of subdivision (h)(1)(A) commits a violation of this section.

(C) Subdivision (h)(1)(A) shall not apply if the residence is located on property that is, according to the relevant local, county, or municipal zoning law, zoned for a use other than residential or mixed-use.

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

(B) Subdivision (h)(2)(A) shall not apply if the residence is located on property that is, according to the relevant local, county, or municipal zoning law, zoned for a use other than residential or mixed-use.

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

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

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

defined by the juvenile code.

(k)(1) As used in this subsection (k), unless the context otherwise requires:

(A)(i) "Alone with" means one (1) or more offenders covered by this subsection (k) is in the presence of a minor or minors in a private area; and

(a) There is no other adult present in the area;

(b) There is another adult present in the area but the adult is asleep, unconscious, or otherwise unable to observe the offender and the minor or minors;

(c) There is another adult present in the area but the adult present is unable or unwilling to come to the aid of the minor or minors or contact the proper authorities, if necessary; or

(d) There is another adult present in the area but the adult is also a sexual offender or violent sexual offender mandated to comply with the requirements of this part;

(ii) If the offender is in a private area where the offender has the right to be, the offender is not "alone with" a minor or minors if the offender is engaged in an otherwise lawful activity and the presence of the minor or minors is incidental, accidental, or otherwise unrelated to the offender's lawful activity; and

(B)(i) "Private area" means in or on any real or personal property, regardless of ownership, where the conduct of the offender is not readily observable by anyone but the minor or minors alone with the offender;

(ii) If the private area contains multiple rooms, such as a hotel, motel, or other place of temporary lodging, any room, rooms, or other area that the offender occupies with a minor or minors and that otherwise meets the requirements of this definition shall be considered a private area.

(2) Unless otherwise permitted by subsection (c), while mandated to comply with the requirements of this part, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall be alone with a minor or minors in a private area.

41-1-507. Governor's report to legislative committees and attorney general and reporter.

(a) Each month or part of a month that a state of prison overcrowding exists that results in the invocation of powers authorized by this part, the governor shall transmit to the state and local government committee of the senate, the committee of the house of representatives having oversight over corrections, and the attorney general and reporter the following information on any inmates who were granted early parole or whose commitment was delayed:

(1) The number of inmates in each category;

(2) The distribution of offenses for which inmates in each category were convicted;

(3) The length of sentences of inmates in each category;

(4) The amount of time served by inmates granted early parole;

(5) The amount of time inmates granted early parole were released prior to regular parole eligibility or release classification dates; and

(6) Any other information concerning early releases on parole or delayed commitments that may be requested by the state and local government committee of the senate and the committee of the house of representatives

having oversight over corrections.

(b) Within thirty (30) days of the end of a state of prison overcrowding emergency, the governor shall also transmit a summary of the information listed in this section to the officials listed in this section. The summary shall be applicable to all inmates granted early parole or whose commitment was delayed during the most recent state of prison overcrowding emergency.

(c) The commissioner shall report to the state and local government committee of the senate and the state government committee of the house of representatives the number of early releases by primary offense whenever inmates are granted early parole under this part.

41-8-105. Submission and review of county plans.

(a) Any county is authorized to submit a plan to the commissioner in which it seeks to participate in the program.

(b) The plan shall be submitted in the manner established pursuant to the rules promulgated by the commissioner pursuant to this chapter.

(c) The plan shall be approved by the county commission and the county sheriff before it will be considered by the commissioner.

(d) The jail inspection division of the Tennessee corrections institute shall provide any assistance requested by the commissioner in the review and evaluation of any plan submitted by the counties and of the county's implementation of a plan that is approved.

41-21-204. Medical and psychological care.

(a) All inmates at their reception and at such times thereafter as may be deemed necessary shall be examined by a physician for the purpose of determining their health status.

(b) The medical director shall conduct a daily outpatient clinic. Any inmate who is ill shall receive proper medical treatment.

(c)(1) The physician shall, acting under and subject to the power of the commissioner of correction, visit the penitentiary in the discharge of duties as often as necessary, prescribe for inmates who are sick, and attend to the regimen, clothing and cleanliness of those who are in the hospital and report to the commissioner any failure on the part of the warden to provide fully for their necessary wants.

(2)(A) The physician shall provide pregnant prisoners and detainees with regular prenatal and postpartum medical care, as necessary.

(B) All prisoners and detainees potentially affected by this subdivision (c)(2) must be advised in writing of the requirements of this subdivision (c)(2), and of § 41-21-227(h), upon admission to the correctional institution and when known to be pregnant.

(C) As used in this subdivision (c)(2):

(i) "Correctional institution" means any facility under the authority of any state, county, or municipal government that has the power to detain or restrain, or both, a person under the laws of this state;

(ii) "Detainee" means any person detained under the immigration laws of the United States at any correctional institution;

(iii) "Postpartum" means the six-week period, or longer as determined by the healthcare professional responsible for the prisoner or detainee's health care, immediately following delivery, stillbirth, mis-

carriage, ectopic pregnancy, or other non-live birth outcome;

(iv) "Prenatal care" includes pregnancy testing, medical examinations, laboratory and diagnostic tests, including offering HIV testing and prophylaxis when indicated, advice on appropriate levels of activity, safety precautions, nutritional guidance and counseling, routine and high-risk care, management of chemical dependencies, comprehensive counseling and assistance, prescription of appropriate nutritional supplements, and postpartum follow up; and

(v) "Prisoner" means any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(3) The physician shall keep a regular journal, to be left in the penitentiary, stating the time of all admissions to the hospital, the nature of the disease, the treatment of each patient, and the time of the patient's discharge from the hospital or of the patient's death.

(4) The physician shall keep a register of all the inmates under the physician's charge, stating their diseases, the cause of the diseases when practicable and the state of their health on entering and leaving the hospital. The physician shall also keep a register of all infirm inmates, giving their names, ages, places of birth and the particular infirmity of each. The register shall always remain in the hospital, open to inspection.

(d) The commissioner may remove the inmates in the penitentiary to such place of security in this state as the commissioner may think best, if, in the commissioner's opinion, the prevalence of any epidemic, infectious or contagious disorder or other urgent occasion renders it expedient and proper.

(e) Any inmate who is sick at the expiration of the term of imprisonment shall not be discharged until the inmate's health is restored, except at the inmate's request.

(f)(1) To the extent necessary, the department of correction may contract with the department of mental health and substance abuse services or the department of intellectual and developmental disabilities to ensure that psychological services are available at an adequate level and quality for all inmates who are in the department's custody and who are in need of those services but who do not qualify for a transfer from the department of correction as provided in title 33, chapter 3, part 4.

(2) The department of correction shall exercise due diligence to protect the safety of any person rendering psychological services at a departmental facility.

(3) "Psychological services," as used in this subsection (f), includes evaluation and treatment for chemical dependency, psychological disorders and intellectual disability.

41-21-238. Educational and vocational training plan — Documentation.

(a) In addition to the education plan authorized by § 41-21-509, the commissioner of education, with the assistance of the commissioner of correction and a representative from the board of regents and the University of Tennessee system, shall by January 1, 1995, formulate a plan to increase the

educational and vocational opportunities currently available to inmates in the custody of the department of correction. This plan shall emphasize basic educational skills such as reading and writing, but shall also include possible use of existing community colleges and vocational schools for inmates who are acceptable security risks and are in need of a marketable free-work skill that cannot be obtained within the confines of a correctional institution.

(b) Upon implementation of the plan, the commissioner of correction, with the assistance of the board of parole, shall monitor and document the effectiveness of the plan. Documentation shall include:

(1) The number of inmates who participate;

(2) The amount of improvement in educational or vocational skills achieved by the participating inmates;

(3) The percentage of participating inmates able to obtain employment upon their release from custody; and

(4) The recidivism rate of inmates who participated in the plan.

(c) [Deleted by 2020 amendment.]

41-21-241. Meals and supplemental provisions between meals for pregnant prisoners or detainees.

A correctional institution shall provide a pregnant prisoner or detainee with nutritionally appropriate meals and appropriate supplemental provisions between meals. As used in this section, "correctional institution," "detainee," and "prisoner" have the same meaning as in § 41-21-204(c)(2).

41-21-243. Family Visitation and Crime Reduction Act.

(a) This section shall be known and may be cited as the "Family Visitation and Crime Reduction Act."

(b) The general assembly finds that maintaining an inmate's family and community relationships is an important correctional resource that can improve an inmate's behavior in the correctional facility, and upon an inmate's release from a correctional facility, assist in reducing recidivism.

(c) The department shall maintain a visitation program. Policies may include a system for prior approval of visitors and restrictions on visitation deemed appropriate by the commissioner. Each state institution shall have an area designated for visitation. The commissioner of correction shall have the authority to suspend visitation in the event of emergency circumstances as defined in department of correction policies.

(d) The department of correction shall provide, at designated visitation areas for approved visitors in each state correctional facility, information relating to applicable visiting regulations, dress codes and visiting procedures. Visitors not complying with applicable visiting regulations, dress codes and visiting procedures may be denied the privilege to visit in accordance with department policy.

(e) Correctional officers assigned to visitation areas shall receive training on effective communication with family members and children of inmates, for the purpose of improving the quality of family visitation.

(f) The department of correction is encouraged to provide an area for child visitors.

(g) The department of correction shall report at least annually to the state and local government committee of the senate and committee of the house of

representatives having oversight over corrections concerning the department's progress on implementing procedures and services that enhance, improve and encourage visitation. The report must include an executive summary.

41-22-415. Contractual agreements to provide for work training programs.

TRICOR may enter into contractual agreements with counties and cities to provide work training programs, including the Private Sector Prison Industry Enhancement Certification Program (PS/PIEC) (P.L 96-157, as amended), for prisoners incarcerated in county and city jails.

42-3-116. Status of airport authorities — Property and revenues exempt from taxation.

(a) It is declared that airport authorities created pursuant to this chapter are public and governmental bodies acting as agencies and instrumentalities of the creating and participating municipalities, and that the acquiring, operating, and financing of airports and related facilities by such airport authorities are for a public and governmental purpose and matters of public necessity.

(b) The property and revenues of the authority or any interest in such property and revenues are exempt from all state, county, and municipal taxation.

42-3-120. Written agreement between peer-to-peer car sharing program and airport. [Effective on February 1, 2021.]

(a) As used in this section, "peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

(b) If a peer-to-peer car sharing program conducts business at an airport or otherwise uses airport facilities, then the program shall enter into a written agreement with an airport, or the entity responsible for regulating commerce at the airport, within this state.

43-1-701. Establishment — Source of fund — Accounting — Interest — Investment — Expenditures.

(a) There is established within the general fund a special agency account to be known as the Tennessee agricultural regulatory fund, referred to in this part as "the fund."

(b) Notwithstanding any law to the contrary, there shall be deposited in the fund all moneys collected pursuant to the following:

(1) The Tennessee Plant Pest Act, compiled in chapter 6, part 1, of this title;

(2) The Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled in chapter 8, parts 1 and 2 of this title;

(3) Chapter 8, part 3, of this title, relative to the aerial application of pesticides;

(4) The Tennessee Seed Law of 1986, compiled in chapter 10 of this title;

(5) The Tennessee Commercial Fertilizer Law of 1969, compiled in chapter 11, part 1 of this title;

(6) The Tennessee Agricultural Liming Materials Act, compiled in chapter

11, part 4 of this title;

(7) Section 43-27-104, relative to hemp;

(8) The Tennessee Commercial Feed Law of 1972, compiled in title 44, chapter 6;

(9) Title 44, chapter 7, relative to marks, brands, registration, and certification;

(10) The Tennessee Livestock Dealer Act, compiled in title 44, chapter 10, part 2;

(11) Title 44, chapter 11, relative to livestock sales;

(12) Title 44, chapter 16, relative to baby chicks;

(13) Title 47, chapter 26, relative to weights and measures;

(14) The Tennessee Food, Drug and Cosmetic Act, compiled in title 53, chapter 1;

(15) [Deleted by 2020 amendment.]

(16) The Dairy Law of the State of Tennessee, compiled in title 53, chapter 3;

(17) Title 53, chapter 7, relative to meat and poultry inspections;

(18) The Tennessee Retail Food Safety Act, compiled in title 53, chapter 8, part 2;

(19) Title 53, chapter 12 [repealed], relative to vending machines; and

(20) Tennessee Application of Pesticides Act of 1978, compiled in title 62, chapter 21.

(c) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward and maintained until expended in accordance with this part.

(d) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. The fund shall be administered by the commissioner.

(e) Moneys in the fund may be expended only in accordance with annual appropriations approved by the general assembly. Subject to the foregoing requirement, moneys in the fund shall be expended at the direction of the commissioner only to defray the costs associated with implementing and effectuating the purposes of the statutes specified in subsection (b).

43-8-302. Powers and duties of commissioner.

The commissioner has and shall exercise the following powers and duties:

(1) Promulgate rules and regulations that the commissioner determines are necessary to implement and supplement this part and provide for its orderly administration;

(2) Prescribe qualifications for applicants for licenses to engage in the custom application of pesticides and render such tests as are necessary to determine whether the applicant meets the qualifications;

(3) Obtain the advice of members of the commercial aerial applicators industry before issuing rules, regulations, or qualifications for applicants for licenses;

(4) Issue licenses to qualified applicants and collect the appropriate fees;

(5) Hold hearings to determine whether or not any violation of this part or rules and regulations issued pursuant thereto has taken place, and transmit any information or material to the local district attorney general for

prosecution if the commissioner determines that a violation has occurred;

(6) Suspend or revoke any permit following a hearing as provided for in § 43-8-305;

(7) Declare states of emergency and issue temporary permits as provided for in § 43-8-309;

(8) Require that licensees maintain records and submit reports as necessary to show the nature and extent of their operation and any other information necessary to carry out the provisions and intent of this part;

(9) Impose such limitations on the licenses granted to pilots, particularly with respect to compliance with the Tennessee Insecticide, Fungicide and Rodenticide Act, compiled as parts 1 and 2 of this chapter, as the commissioner may find necessary after determination of the applicant's qualifications;

(10) Promulgate rules and regulations as required by the environmental protection agency; and

(11) Inspect periodically the operation and conduct of licensees.

(12) [Deleted by 2020 amendment.]

43-8-312. [Repealed.]

43-13-101. Purpose and intent.

In the interest of the public health, safety, and welfare, it is the purpose and intent of this chapter to authorize the commission to study and make recommendations on issues related to equine health in this state to:

(1) Promote the health of horses in this state; and

(2) Encourage agriculture and the breeding of equine livestock in this state.

43-13-102. Chapter definitions.

As used in this chapter:

(1) "Commission" means the Tennessee equine health advisory commission, created by § 43-13-103; and

(2) "Department" means the department of agriculture.

43-13-103. Tennessee equine health advisory commission.

(a) There is created a Tennessee equine health advisory commission, which consists of nine (9) members as follows:

(1) The commissioner of agriculture, or the commissioner's designee, as an ex officio voting member;

(2) One (1) member appointed by the governor who is licensed to practice veterinary medicine under title 63, chapter 12, part 1, who has experience in the equine industry in this state, to be chosen from a list of eligible nominees from the Tennessee Veterinary Medical Association;

(3) One (1) public member appointed by the speaker of the senate;

(4) One (1) public member appointed by the speaker of the house of representatives; and

(5) Five (5) public members appointed by the governor.

(b) Of the members appointed under subdivision (a)(5), the governor shall strive to appoint members from each grand division of this state.

(c) The governor shall appoint initial members of the commission to stag-

gered terms as follows:

(1) The veterinarian appointed under subdivision (a)(2), the public member appointed under subdivision (a)(3), the public member appointed under subdivision (a)(4), and one (1) of the members appointed under subdivision (a)(5) are appointed to serve initial terms of six (6) years; and

(2) Four (4) of the members appointed under subdivision (a)(5) are appointed to serve initial terms of four (4) years.

(d) The terms of initial appointees to the commission commence on August 1, 2020. All subsequent appointments are for four-year terms that begin on July 1 and end on June 30.

(e) The commission is attached to the department of agriculture for administrative purposes.

43-13-104. Eligibility for membership on commission.

To be eligible for appointment to, and membership on, the commission, a person must:

(1) Be a legal resident of this state at the time of appointment; and

(2) Have personal or professional experience in and knowledge of the equine industry in this state.

43-13-105. Meetings — Quorum — Service without compensation or travel expenses.

(a) The commission shall meet at least once per year and may hold additional meetings necessary for the purpose of transacting business that properly comes before it. All members of the commission must be duly notified of the time and place of each meeting.

(b) The commissioner of agriculture, or the commissioner's designee, shall call the initial meeting of the commission. The members of the commission shall elect a chair and a secretary during the initial meeting. The chair of the commission shall call all subsequent commission meetings.

(c) A simple majority of the members of the commission constitutes a quorum for the transaction of business or the exercise of its powers.

(d) The members of the commission serve without compensation or travel expenses.

43-13-106. Study of equine health and equine industry issues — Regulatory and legislative recommendations — Report.

(a) The commission shall study the state of equine health in this state, emerging equine health issues that may impact the equine industry in this state, and other equine health and equine industry issues the commission deems relevant, and shall make regulatory and legislative recommendations to the department and the general assembly.

(b) On or before February 1, 2021, and not later than each February 1 thereafter, the commission shall develop and submit an annual report to the governor, the commissioner of agriculture, the chair of the energy, agriculture and natural resources committee of the senate, and the agriculture and natural resources committee of the house of representatives. The report must describe the status of equine health in this state, make any recommendations for rulemaking to the department that the commission considers appropriate,

and make any legislative recommendations to the general assembly that the commission considers appropriate.

43-38-1101. Filing requirements.

(a) The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) This chapter must require or permit filing the document in the office of the secretary of state.

(c) The document must contain the information required by this chapter and any applicable rules. It may contain other information as well.

(d) The document must be capable of being printed in ink in a clear and legible fashion on one (1) side of letter size paper.

(e) The document must be in the English language. A cooperative's or other business entity's name need not be in English, if written in English letters, or Arabic or Roman numerals.

(f) The document must be executed:

(1) By the president of the board of directors of a cooperative, or by another of its authorized officers, if a cooperative action is taken;

(2) If directors of a cooperative have not been selected or the cooperative has not been formed, by an organizer; or

(3) If the business entity is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document must sign it and state beneath or opposite the signature the person's name and the capacity in which the person signs. The document may, but need not, contain:

(1) An attestation by the secretary or an assistant secretary;

(2) An acknowledgment, verification, or proof; or

(3) The date the document is signed, except that the date is required for the annual report for the secretary of state.

(h) If the secretary of state, pursuant to statutory authority, has prescribed a mandatory form for the document, then the document must be in or on the prescribed form.

(i) The document must be delivered to the office of the secretary of state for filing and must be accompanied by the current filing fee, and any tax, license fee, interest, or penalty required by this chapter. If the secretary of state has prescribed a mandatory method of filing, then the document must be filed in the prescribed manner.

(j) The document must contain a statement that makes it clear that the document is being filed pursuant to the Tennessee Processing Cooperative Law.

(k) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

(*l*) Notwithstanding any other law to the contrary, whenever this title requires that an application or other document submitted to the secretary of state for filing be accompanied by a certificate from the commissioner of revenue reciting that the business has properly filed all reports and paid all required taxes and penalties, the certificate requirement is met, and a paper certificate need not accompany the application or other document, if the

commissioner provides to the secretary of state electronic verification of the required information. Upon request of the person seeking certificate information, the commissioner shall provide to the secretary of state verification in lieu of a paper certificate.

(m) Any Tennessee cooperative that has not timely filed with the department of revenue such information as required by the commissioner of revenue under prior law is subject to administrative dissolution in accordance with the procedures specified in § 43-38-1004. Upon certification by the commissioner that it has complied with the information reporting requirements that were required under prior law, a cooperative that has been administratively dissolved or that has had its certificate of authority revoked for failure to timely file this information may be reinstated.

43-38-1102. Forms and filing methods.

The secretary of state may prescribe and furnish forms and filing methods for all filings required by this title. If the secretary of state so requires, then use of these forms and filing methods is mandatory.

43-38-1105. Filing duty of secretary of state.

(a) If the form and filing of a document delivered to the office of the secretary of state for filing satisfies the requirements of this section, and of all other applicable sections or rules that add to these requirements, then the secretary of state must file it.

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with the secretary of state's name and official title and the date and time of receipt, on the document. After filing a document, except for filings pursuant to §§ 43-38-109 and 43-38-120, the secretary of state shall deliver the document, with the filing fee receipt attached, or acknowledgment of receipt if no fee is required, to the cooperative or its representative in due course. A cooperative or its representative may present to the office of the secretary of state an exact or conformed copy of the document presented for filing, together with the document; and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy "Filed", together with the secretary of state's name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the party filing the original of the document.

(c) If the secretary of state refuses to file a document, then the secretary of state shall return it to the cooperative or its representative immediately after the document was received for filing, together with a brief, written explanation of the reason for the refusal.

(d) The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or in part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy is in fact an exact or conformed copy.

(e) Any cooperative document that meets the requirements of this chapter

and all applicable rules for filing and recording must be received, filed, and recorded by the appropriate office, upon payment of the appropriate fees and taxes, if any, notwithstanding any contrary requirements found in any other laws of this state.

43-39-102. Immunity from liability for injury or death.

(a) Except as provided in subsection (b):

(1) No agritourism professional is liable for injury to or death of a participant, or damage to a participant's property, resulting solely from the inherent risks of agritourism activities, as long as the warning contained in § 43-39-103(b) is posted as required; and

(2) A participant or participant's representative shall not maintain an action against or recover from an agritourism professional for injury, loss, damage, including, but not limited to property damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities.

(b) Nothing in subsection (a) prevents or limits the liability of an agritourism professional if the agritourism professional or any of its agents does any one (1) or more of the following:

(1) Commits an act or omission that constitutes reckless disregard for the safety of the participant or the participant's property, and that act or omission proximately causes injury, damage, or death to the participant, or damage to the participant's property;

(2) Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in the activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant, or damage to the participant's property;

(3) Fails to train, or improperly or inadequately trains, employees who are actively involved in agritourism activities, and an act or omission of the employee proximately causes injury, damage, or death to the participant, or damage to the participant's property;

(4) Intentionally injures the participant, or damages the participant's property; or

(5) Commits any other act, error, or omission that constitutes willful or wanton misconduct, gross negligence, or criminal conduct.

(c) Nothing in subsection (a):

(1) Prevents or limits the liability of an agritourism professional under the product liability provisions in title 29, chapter 28; or

(2) Shall be construed so as to negate that assumption of the risk is an affirmative defense.

(d) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

43-39-103. Warning notice.

(a)(1) Every agritourism professional shall post and maintain a sign that contains the warning notice specified in subsection (b). The sign shall be placed in a clearly visible location at the entrance to the agritourism location

and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch (1″) in height.

(2) Every written contract entered into by an agritourism professional for the providing of professional services, instruction or the rental of equipment to a participant for purposes of engaging in or participating in an agritourism activity, whether or not the contract involves agritourism activities on or off the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in subsection (b).

(b) The signs and contracts described in subsection (a) shall contain the following language or substantially similar language:

WARNING

Under Tennessee law, there is no liability for an injury to or death of a participant, or damage to the property of a participant, in an agritourism activity conducted at this agritourism location or by this agritourism professional if such injury, death, or property damage results from the inherent risks of the agritourism activity.

Inherent risks of agritourism activities include, among others, risks of injury and damage inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death or to the damaging of your own property. You are assuming the risk of participating in this agritourism activity.

(c) Failure to comply with this section shall prevent an agritourism professional from invoking the privileges of immunity provided by this chapter.

44-11-103. Local regulation or prohibition of exhibition of livestock restricted.

(a) As used in this section:

(1) "Exhibition of livestock" means a show or sale of livestock at a fair or elsewhere that is sponsored by or under the control of a county or independent agricultural society, school, university, breed association, fair association, or similar organization; and

(2) "Local governing body" means the legislative body of a city, municipality, county, or other political subdivision of this state.

(b) No local governing body shall adopt or continue in effect any ordinance, resolution, rule, regulation, or other enactment regulating or prohibiting the exhibition of livestock in this state.

(c) Subsection (b) does not apply to any ordinance, resolution, rule, regulation, or other enactment regarding the exhibition of livestock in this state, when such enactment is otherwise authorized by state law or is related to reasonable restrictions regarding time, place, and manner consistent with other similar events or the protection of public health, safety, or welfare.

47-18-130. Travel promoters — Commingling of funds prohibited — Trust account.

(a) For purposes of this section:

(1) "Travel promoter" means a person who:

(A) Maintains one (1) or more business entities or physical business

locations in this state; and

(B) Sells, provides, furnishes, contracts for, or arranges travel services on behalf of another person for a fee, commission, or other valuable consideration;

(2) "Travel promoter" does not include:

(A) A transportation carrier if the transportation carrier provides, furnishes, contracts for, or arranges only transportation services that are directly provided by the transportation carrier as the substantial portion of the transportation carrier's business; or

(B) A publicly traded company as defined under § 67-4-2008(a)(5)(D);

(3) "Travel services":

(A) Means arranging or booking vacation or travel packages, travel reservations, or travel accommodations; and

(B) Does not include property or estate management services.

(b)(1) A travel promoter shall not commingle in the same account or fund those funds that belong to the travel promoter or the travel promoter's business entity with customer funds that are held for disbursement for payment of travel services.

(2) A travel promoter shall deposit into a trust account any funds the travel promoter receives from a customer for disbursement for payment of travel services.

(c)(1) Each travel promoter that conducts business in this state shall establish and maintain a separate general trust account in a state or national bank authorized by law to administer trust funds in this state.

(2) Funds required by subsection (b) to be deposited in a trust account must be identified or earmarked with an identifier unique to the customer or transaction for which the funds were deposited and are being held for disbursement.

(d) A violation of this section constitutes an unfair or deceptive act prohibited under § 47-18-104, and is punishable as provided in this part. Each act in violation of this section constitutes a separate violation.

47-18-305. Requirements for valid agreements.

(a) All health club agreements shall:

(1) Be in writing;

(2) Be signed by the buyer;

(3) Designate the date on which the buyer actually signed the agreement; and

(4) Contain in boldface type of at least ten (10) points, in immediate proximity to the space reserved for the signature of the buyer, the following statement:

BUYER'S RIGHT TO CANCEL

YOU (THE BUYER) MAY CANCEL THIS AGREEMENT BY SENDING NOTICE OF YOUR WISH TO CANCEL TO THE HEALTH CLUB BEFORE MIDNIGHT OF THE THIRD DAY (EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS) OR, IF THE AGREEMENT IS SUBJECT TO A FINANCE CHARGE, THE SEVENTH DAY AFTER THE DAY YOU SIGNED THE AGREEMENT. THIS NOTICE MUST BE SENT BY REGISTERED MAIL TO THE FOLLOWING ADDRESS:

WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THE NOTICE OF CANCELLATION, THE HEALTH CLUB WILL RETURN ANY PAYMENTS MADE AND ANY NOTE EXECUTED BY YOU IN CONNECTION WITH THE AGREEMENT.

(5)(A) Contain in boldface type of at least ten (10) points, the following statement:

SHOULD YOU (THE BUYER) CHOOSE TO PAY THIS AGREEMENT IN FULL, BE AWARE THAT YOU ARE PAYING FOR FUTURE SERVICES AND MAY BE RISKING LOSS OF YOUR MONEY IN THE EVENT THIS HEALTH CLUB CEASES TO CONDUCT BUSINESS.

(B) Contain in boldface type, the following statements in separated paragraphs:

(i) IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW, IF THIS HEALTH CLUB CEASES OPERATION AND FAILS TO OFFER YOU (THE BUYER) AN ALTERNATE LOCATION WITHIN FIFTEEN (15) MILES, WITH NO ADDITIONAL COST TO YOU, THEN NO FURTHER PAYMENTS SHALL BE DUE TO ANYONE, INCLUDING ANY PURCHASER OF ANY NOTE ASSOCIATED WITH OR CONTAINED IN THIS CONTRACT.

(ii) STATE LAW REQUIRES THAT ANY HEALTH CLUB AGREEMENT THAT IS NOT CANCELLABLE ON THIRTY (30) DAYS' NOTICE OR LESS BE PAYABLE ONLY IN THE FOLLOWING MANNER, AND ANY HEALTH CLUB THAT ENTERS INTO HEALTH CLUB AGREEMENTS SHALL OFFER BOTH PAYMENT OPTIONS AT THE SAME PRICE, EXCLUDING INTEREST OR FINANCE CHARGES OR OTHER EQUIVALENT CHARGES THAT SHALL NOT EXCEED EIGHTEEN PERCENT (18%) OF THE TOTAL CONTRACT PRICE:

***(a)* Full payment within ninety (90) days after entering into the health club agreement; or**

***(b)* Equal monthly installments with any down payment (unless exempt as provided by law) limited to thirty percent (30%) of the total cost of the agreement. Prepayment is allowed at any time with full refund of unearned finance charges.**

(iii) PLEASE READ THIS CONTRACT CAREFULLY. THIS CONTRACT MAY CONTAIN PAYMENTS INCLUDING, BUT NOT LIMITED TO, ENROLLMENT FEES, ANNUAL FEES, MEMBERSHIP FEES, AND OTHER DIRECT PAYMENTS TO THE HEALTH CLUB, INCLUDING FULL PAYMENT FOR THE HEALTH CLUB AGREEMENT OR MONTHLY INSTALLMENT PAYMENTS WITH ANY DOWN PAYMENT (UNLESS EXEMPT AS PROVIDED BY LAW) LIMITED TO THIRTY PERCENT (30%) OF THE TOTAL COST OF THE AGREEMENT, AND, IN THE CASE OF INSTALLMENT PAYMENTS THAT ARE NOT MADE BY ELECTRONIC FUND TRANSFER OR CASH, AN ADMINISTRATIVE CHARGE,

NOT TO EXCEED FIVE DOLLARS ($5.00) FOR EACH BILLING PERIOD. ALL SUCH PAYMENTS MUST BE DISCLOSED IN THE CONTRACT.

(iv) THERE ARE NO AUTOMATIC OR LIFETIME RENEWALS OF THE TERM INCIDENT TO THE TERM OF THIS CONTRACT. IF THE HEALTH CLUB PROVIDES FOR A RENEWAL OPTION, THEN, UNLESS SUCH RENEWAL TERM IS CANCELLABLE ON THIRTY (30) DAYS' NOTICE OR LESS, SUCH OPTION MUST BE AFFIRMATIVELY AGREED TO IN WRITING BY THE BUYER AT THE BEGINNING OF THE RENEWAL PERIOD. IF THE HEALTH CLUB FACILITY IS LESS THAN OR EQUAL TO TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR SEVENTY-FIVE DOLLARS ($75), WHICHEVER IS GREATER. HOWEVER, IF THE HEALTH CLUB FACILITY IS GREATER THAN TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR ONE HUNDRED TWENTY-FIVE DOLLARS ($125), WHICHEVER IS GREATER. PAYMENT OF ANY RENEWAL SHALL BE MADE AS REQUIRED BY TENNESSEE CODE ANNOTATED, SECTION 47-18-305(a)(5)(B)(ii).

(v) A CONTRACT OR AGREEMENT MAY HAVE A CONTINUING PROVISION OR STIPULATION THAT PROVIDES FOR A MONTH-TO-MONTH CONTINUATION OF THE INITIAL TERM OF THE AGREEMENT, PROVIDED THE BUYER HAS THE RIGHT TO CANCEL THE CONTINUING PORTION OF THE AGREEMENT AFTER FULFILLING THE ORIGINAL TERM OF THE AGREEMENT BY TENDERING THIRTY (30) DAYS' WRITTEN NOTICE OF SUCH INTENT TO THE OPERATOR BY REGISTERED MAIL. IF SUCH CONTRACTUAL OBLIGATION HAS A CONTINUING PROVISION OR STIPULATION AFTER A REQUIRED INITIAL TERM OF MORE THAN TWO (2) MONTHS, NOTIFICATION MUST BE SENT BY THE HEALTH CLUB OPERATOR TO CONFIRM THAT THE ORIGINAL OBLIGATION WAS FULFILLED AND TO REAFFIRM THE MONTH-TO-MONTH OR CONTINUING PROVISION OR STIPULATION. SUCH NOTIFICATION SHALL ALSO INCLUDE NOTICE OF THE BUYER'S RIGHT TO CANCEL THE CONTINUING MONTH-TO-MONTH OBLIGATION UPON THIRTY (30) DAYS' WRITTEN NOTICE SENT BY THE BUYER TO THE OPERATOR BY REGISTERED MAIL.

(vi) ANY RENEWAL RIGHT GRANTED UNDER THIS CONTRACT SHALL EXPIRE ON THE FINAL DAY OF THE AGREEMENT. HOWEVER, THE BUYER SHALL HAVE A THIRTY (30) DAY GRACE PERIOD FROM THE DATE OF THE EXPIRATION OF THE RENEWAL RIGHT IN WHICH TO EXERCISE ANY RENEWAL RIGHT GRANTED TO THE BUYER UNDER THIS

CONTRACT. THE OPERATOR SHALL HAVE THE RIGHT TO CHARGE A LATE PENALTY OF UP TO TWENTY-FIVE DOLLARS ($25) IF THE RENEWAL RIGHTS ARE NOT EXERCISED ON OR BEFORE THE EXPIRATION DATE AS STIPULATED IN THE AGREEMENT OR ANY FUTURE RENEWAL PERIODS.

(b)(1)(A) A health club shall not enter into or offer to enter into a health club agreement unless the health club facility is fully operational and available for use by prospective buyers.

(B) Subdivision (b)(1)(A) shall not apply to a health club that discloses to the prospective buyer in writing on a form containing only the disclosure of prospective purchase that the health club agreement the prospective buyer is entering into is for the right to use a health club facility that is not yet operational and available for use.

(2) If the health club facility for which a prospective buyer entered into a health club agreement pursuant to subdivision (b)(1)(A) is not operational and available for use within thirty (30) days of entering into the health club agreement, then the prospective buyer shall have the right to cancel the health club agreement and receive all money paid to the health club under that health club agreement by providing the health club written notice of such cancellation. The right of cancellation shall expire on the date the health club facility is fully operational. The disclosure shall contain notice of the right of cancellation, be dated and signed by the prospective buyer, and made available to prospective buyers.

(c) It is unlawful for a health club to offer any cash or discounted prepayment option that exceeds a reduction of the cash value of the highest stated price for any similar period or service-type of agreement:

(1) By an excess of ten percent (10%) for any term less than two (2) years duration;

(2) By an excess of fourteen percent (14%) for any term of two (2) years duration, but less than three (3) years duration; or

(3) By an excess of eighteen percent (18%) for any term of three (3) years duration.

(d) It shall be unlawful for a health club to offer free or no cost periods of enrollment in addition to the initial paid term of the agreement in order to circumvent the discounting provision of subsection (c).

(e) [Deleted by 2016 amendment.]

47-26-101. Promulgation of rules and regulations to establish legal and uniform standard of weights and measures.

The commissioner of agriculture shall promulgate rules to establish a legal and uniform standard of weights and measures for the sale and purchase of products of the farm, orchard, or garden and articles of merchandise. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

48-1-103. Exemptions.

(a) The following securities are exempted from § 48-1-104 and, except as the commissioner may otherwise require by rule, §§ 48-1-113 and 48-1-124(e):

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one (1) or more of the

foregoing, or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one (1) or more of the foregoing, any international bank of which the United States is a member, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state; or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment or reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, guardian, or in a similar fiduciary capacity;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, any federally insured savings and loan or similar association organized under the laws of any state and authorized to do business in this state, or any thrift certificates which are issued and sold by an industrial bank organized and supervised under the laws of this state which is insured pursuant to the Federal Deposit Insurance Act (12 U.S.C. § 1811 et seq.), as that act may be amended from time to time;

(5) Any security issued or guaranteed by any federal credit union or any credit union supervised under the laws of this state;

(6) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is:

(A) Subject to the jurisdiction of the interstate commerce commission;

(B) A registered holding company under the Public Utility Holding Company Act of 1935 [repealed], as amended, or a subsidiary of such a company within the meaning of that act;

(C) Regulated in respect of its rates and charges by a governmental authority of the United States or any state; or

(D) Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(7) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association; provided, that at least ten (10) days prior to any sale of a security pursuant to an exemption under this subdivision (a)(7), such person has filed with the commissioner all information as the commissioner may by rule require and paid a fee of one hundred dollars ($100), and that the commissioner does not by order disallow the exemption under this subdivision (a)(7) and no sales are made until expiration of that ten (10) days; provided further, that the commissioner may restrict the availability of this exemption to any class or subclass of securities of such issuer;

(8) Any security which meets all of the following conditions:

(A) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in this state for service of process and has set forth the name and address of such agent in its prospectus or offering circular;

(B) A class of the issuer's securities is registered under § 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 78l), as amended, and has been so registered for the three (3) years preceding the offering date, and the issuer has filed all reports required to be filed by § 13 or § 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m and 15 U.S.C. § 78o(d)), respectively, as amended, during the preceding twelve (12) months;

(C) Neither the issuer nor a significant subsidiary has had a material default (which was not cured within ten (10) days) during the last five (5) years in the payment of:

(i) Principal, interest, dividend or sinking fund installment on preferred stock or indebtedness for borrowed money; or

(ii) Rentals under material leases with terms of three (3) years or more;

(D) The issuer has had consolidated net income (before extraordinary items and the cumulative effect of accounting changes) of at least one million dollars ($1,000,000) in four (4) of its last five (5) fiscal years including its last fiscal year and, if the offering is of interest-bearing securities, has had for its last fiscal year, such net income, but before deduction for income taxes and depreciation, of at least one and one-half (1½) times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year" means the most recent year for which audited financial statements are available; provided, that such statements cover a fiscal period ended not more than fifteen (15) months from the commencement of the offering;

(E) If the offering is of stock or shares, other than preferred stock or shares, such securities have voting rights and such rights include:

(i) The right to have at least as many votes per share; and

(ii) The right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law;

(F) If the offering is of stock or shares, other than preferred stock or shares, outstanding stock or shares of the same class are owned beneficially or of record, on any date within six (6) months prior to the commencement of the offering, by at least one thousand two hundred (1,200) persons, and on such date there are at least seven hundred fifty thousand (750,000) such shares outstanding with an aggregate market value, based on the closing bid price for that day, of at least three million seven hundred fifty thousand dollars ($3,750,000). In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith, for the purposes of this subdivision (a)(8), upon written information furnished by the record owners; and

(G) If the offering is of interest-bearing securities of a finance company with liquid assets of at least one hundred five percent (105%) of its liabilities (other than deferred income taxes, deferred investment tax credits, capital stock and surplus) at the end of each of its last five (5) fiscal years, the applicable net income requirement of subdivision (a)(8)(D), but

before deduction for interest expense, shall be one hundred twenty-five percent (125%) of the issuer's annual interest expense. "Finance company" means a company engaged, directly or through consolidated subsidiaries, primarily in the business of wholesale, retail, installment, mortgage, commercial, industrial or consumer financing, banking, or factoring. "Liquid assets" means cash receivables payable on demand or not more than twelve (12) years following the close of the company's last fiscal year, and readily marketable securities, in each case less applicable reserves and unearned income;

(9)(A) Any class of securities currently listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or any other exchange which the commissioner may by order designate;

(B) Any other security of the same issuer which is of senior or substantially equal rank;

(C) Any security called for by subscription rights or warrants so listed or approved; or

(D) Any warrant or right to purchase or subscribe to any of the foregoing;

(10) Any security exchanged by the issuer exclusively with its existing securities holders where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange;

(11) Securities, stocks, and bonds of corporations organized pursuant to the Cooperative Marketing Law, as compiled in title 43, chapter 16, and domiciled within the state of Tennessee;

(12) Any security issued by a bank holding company or a savings and loan holding company if:

(A) Such bank holding company or savings and loan holding company is registered with the federal reserve board; and

(B) At least ten (10) days prior to any sale of a security in this state pursuant to an exemption under this subdivision (a)(12), such bank holding company or savings and loan holding company has filed with the commissioner all information as the commissioner may by rule require and paid a fee of one hundred dollars ($100), and the commissioner does not by order disallow the exemption under this subdivision (a)(12) and no sales are made until expiration of that ten (10) days. The commissioner may restrict the availability of the exemption under this subdivision (a)(12) to any class or subclass of securities of such issuer; and

(13)(A) Any security issued by a person that meets the following requirements:

(i) The sale of the security must meet the requirements of the federal exemption for intrastate offerings in either:

(a) Section 3(a)(11) of the Securities Act of 1933 (15 U.S.C. § 77c(a)(11)), and 17 C.F.R. 230.147 or 17 C.F.R. 230.147A; or

(b) 17 C.F.R. 230.147A;

(ii) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this subdivision (a)(13)(A) shall not exceed one million dollars ($1,000,000) less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer;

(iii) The issuer shall not accept more than ten thousand dollars ($10,000) from an investor unless the investor is an accredited investor

pursuant to 17 C.F.R. 230.501;

(iv) All funds received from the sale of a security in reliance upon this subdivision (a)(13)(A) shall be deposited in a bank or depository institution authorized to do business in this state, and all funds received from buyers of a security in reliance upon this subdivision (a)(13)(A) shall be used consistent with written representations made by the issuer to investors;

(v) Before offering to sell any security, the issuer shall provide a notice to the commissioner in writing or in electronic form; the notice shall specify that the issuer will offer or has sold the security in reliance upon this subdivision (a)(13)(A) and shall include the names and addresses of the following:

(a) The issuer;

(b) All persons who will sell or offer to sell the security on behalf of the issuer; and

(c) The bank or depository institution in which proceeds from the sale of the security will be deposited;

(vi) The issuer shall not be, either before or as a result of the offering, an investment company as defined in § 3, Investment Company Act of 1940 (15 U.S.C. § 80a-3) or subject to the reporting requirements of § 13, Securities Exchange Act of 1934 (15 U.S.C. § 78m) or § 15(d), Securities Exchange Act of 1934 (15 U.S.C. § 78o(d)); and

(vii) The issuer shall inform all buyers prior to the sale of a security that falls within this subdivision (a)(13)(A) that the security has not been registered under this part and:

(a) With respect to issuers utilizing 17 C.F.R. 230.147, the issuer shall also inform all buyers that the security is subject to the limitation on resales contained in 17 C.F.R. 230.147(e); or

(b) With respect to issuers utilizing 17 C.F.R. 230.147A, the issuer shall also inform all buyers that the security is subject to the limitations on resales contained in 17 C.F.R. 230.147A(e);

(B)(i) Subdivision (a)(13)(A) shall not be used with any other exemption under this part unless the offer or sale is to any of the following:

(a) An officer, director, partner, or trustee of the entity offering the sale of the security, or an individual occupying similar status or performing similar functions for the entity offering the sale of the security; or

(b) A person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities issued by the entity offering the sale of the security; and

(ii) Offers or sales to persons listed in subdivisions (a)(13)(B)(i)(*a*) and (*b*) shall not count toward the monetary limit of sales set out in subdivision (a)(13)(A)(ii); and

(C) Subdivision (a)(13)(A) shall not be available to the issuer:

(i) If the person selling or offering to sell the security is subject to a disqualifying event specified in § 48-1-112(a)(2)(A)-(H);

(ii) If the offering does not qualify for the exemption provided in 17 C.F.R. 230.147 or 17 C.F.R. 230.147A. The burden of proof of qualification for either exemption is on the issuer claiming the exemption. Failure to qualify for the claimed exemption will result in any offers or sales of the security to be unregistered offers to sell or sales in violation

of § 48-1-104; or

(iii) If the issuer, any of the issuer's predecessors, any affiliate of the issuer, any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

(a) Within the past five (5) years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the securities and exchange commission;

(b) Within the past five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

(c) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the past five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

(d) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the past five (5) years, that temporarily, preliminarily, or permanently restrains or enjoins the party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(b) The following transactions are exempted from § 48-1-104 and, except as the commissioner may otherwise require by rule, §§ 48-1-113 and 48-1-124(e):

(1) Any transaction by a person acting as an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(2) Any bona fide pledge transaction;

(3) Any sale to an institutional investor or to a broker-dealer;

(4) Any transaction involving the sale of securities of an issuer by or on behalf of such issuer or an affiliate of such issuer if all of the following conditions are met:

(A) The aggregate number of persons in this state purchasing such securities from the issuer and all affiliates of the issuer pursuant to this subdivision (b)(4) during the twelve-month period ending on the date of such sale shall not exceed fifteen (15) persons, exclusive of persons who acquire such securities in transactions which are not subject to this part or which are otherwise exempt from registration under this section or which have been registered pursuant to § 48-1-105 or § 48-1-106;

(B) Such securities are not offered for sale by means of publicly disseminated advertisements or sales literature; and

(C) All purchasers in this state have purchased such securities with the intent of holding such securities for investment for their own accounts and without the intent of participating directly or indirectly in a distribution of such securities. Any person who holds such securities for a period of two (2) years or more from the date such securities have been fully paid for by such person shall be presumed to have purchased such securities for investment;

(5) Any transaction in the outstanding securities of an issuer by an affiliate of such issuer; provided, that:

(A) Such affiliate is not acting as an underwriter with respect to the sale of such securities;

(B) Such securities are sold by the affiliate, through a broker-dealer registered under § 48-1-109, in "broker's transactions" as defined by Rule 144 of the securities and exchange commission (17 C.F.R. § 230.144);

(C) There is no solicitation, directly or indirectly, of orders to purchase any of such securities by the issuer or the affiliate; and

(D) Neither the issuer nor the affiliate makes any payments directly or indirectly in connection with the execution of such transactions other than to the broker-dealer who executes the order to sell the securities;

(6) Any offering of securities by or on behalf of an issuer organized under the laws of or domiciled in this state in which the aggregate amount sold in this state does not exceed two hundred fifty thousand dollars ($250,000) during any twelve-month period, if no commission or other remuneration is paid or given directly or indirectly for soliciting any purchaser in this state, exclusive of any amount of securities sold in exempt transactions pursuant to subdivision (b)(3); provided, that this exemption shall not be available for any offering of certificates of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease;

(7) Any transaction in the outstanding securities of an issuer by or on behalf of a person who is neither the issuer of such securities nor an affiliate of such issuer, at a price reasonably related to the market price and:

(A) If the issuer is required to file reports with the securities and exchange commission pursuant to § 13 or § 15 of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m and 78o) respectively, as amended, the issuer is not delinquent in the filing of any such reports at the date of sale;

(B) In the case of issuers which are not required to file such reports, if there is publicly available the information concerning the issuer specified in Rule 15c2-11 (17 CFR 240.15c2-11), promulgated under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.); or

(C) The issuer is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), as amended, and is not delinquent in filing any reports required pursuant to such act;

(8) Any isolated transaction in securities not involving the issuer of such securities, an underwriter of such securities, or an affiliate of the issuer of such securities;

(9)(A) Any transaction involving the issuance of a security:

(i) In connection with a stock bonus plan requiring payment of no consideration other than services;

(ii) In connection with a stock bonus, pension, profit sharing, savings, thrift, or retirement plan for employees or self-employed individuals qualified under § 401 of the Internal Revenue Code of 1954 (26 U.S.C. § 401), as amended, or individual retirement accounts qualified under § 408 of the Internal Revenue Code of 1954 (26 U.S.C. § 408), as amended; or

(iii) In connection with a transaction that meets the following requirements:

(a) The offering meets the requirements of Rule 701 of the regulations under the Securities Act of 1933 (17 CFR 230.701), as amended;

(b) The offering is exempt from § 5 of the Securities Act of 1933 (15 U.S.C. § 77e), as amended; and

(c) The issuer files with the commissioner no later than fifteen (15) days after the first sale in this state a notice of transaction, on a form adopted by the commissioner, accompanied by a consent to service of process, and a nonrefundable filing fee of five hundred dollars ($500);

(B) No commission, discount, or other remuneration is paid or given in connection with any transaction in this state under this subdivision (b)(9) unless paid or given to a broker-dealer or agent registered under this part; and

(C) The issuance of any security representing an interest in a collective investment fund is exempt only if such security is issued pursuant to a plan established and administered by a bank organized under the laws of the United States or any bank or trust company organized and supervised under the laws of any state of the United States or sponsored by any investment company registered under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), as amended, or sponsored by any insurance company licensed to do business in this state;

(10) Any issuance and delivery of securities of a bank holding company, as defined in § 45-2-1402, to a bank or another bank holding company or to the security holders thereof in exchange for all or substantially all of the assets or the voting securities of the bank or other bank holding company, or in connection with a consolidation or merger of the bank holding company and a bank or other bank holding company; provided, that such exchanges, consolidations or mergers are made in accordance with the applicable statutory requirements;

(11) Any transaction which the commissioner by rule or order exempts as not being in the public interest or necessary for the protection of investors. Any rule under this section may require a notice filing, and may require the payment of a filing fee not in excess of that required by § 48-1-107(b). In the event of withdrawal of a notice filing, no funds shall be returned to the applicant;

(12) Any transaction pursuant to an offer to existing security holders of the issuer, including the persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state;

(13)(A) Any offer or sale of a security by an issuer in a transaction that meets the following requirements:

(i) Sales of securities are made only to persons who are, or who the issuer reasonably believes are, accredited investors. An issuer's belief under this subdivision (b)(13) shall be deemed reasonable if the issuer:

(a) Obtains from such a person a written certification certifying that the person has reviewed the definition of "accredited investor" in § 48-1-102, and certifying that such person meets the definition of "accredited investor" in § 48-1-102;

(b) Obtains from such person such other information as the commissioner may by rule require; and

(c) Maintains, for a period of not less than three (3) years from the date of sale, the written certification and other information required by the commissioner;

(ii) The issuer reasonably believes that all purchasers are purchasing for investment and not with a view to or for resale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within twelve (12) months of sale shall be presumed to be with a view to distribution and not for investment, except a resale to which any of the following applies:

(a) The resale is pursuant to a registration statement effective under § 48-1-105 or § 48-1-106;

(b) The resale is to an accredited investor; or

(c) The resale is to an institutional investor in an exempt transaction pursuant to subdivision (b)(3);

(B) The exemption under this subdivision (b)(13) is not available to an issuer that is in the development stage and that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entities or persons;

(C)(i) The exemption under this subdivision (b)(13) is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliate of the issuer, any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

(a) Within the past five (5) years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the securities and exchange commission;

(b) Within the past five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

(c) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the past five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

(d) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the past five (5) years, that temporarily, preliminarily, or permanently restrains or enjoins the party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security;

(ii) Subdivision (b)(13)(C)(i) is inapplicable if any of the following applies:

(a) The party subject to the disqualification is licensed or registered to conduct securities business in the state in which the order, judgment, or decree creating the disqualification was entered against the party described in subdivision (b)(13)(C)(i);

(b) Before the first offer is made under this exemption, the state securities administrator, the court, or regulatory authority that entered that order, judgment, or decree, waives the disqualification; or

(c) The issuer did not know and, in the exercise of reasonable care based on reasonable investigation, could not have known that a disqualification from the exemption existed under subdivision

(b)(13)(C)(i);

(D) A general announcement of the proposed offering may be made by any means; provided, the general announcement shall include only the following information, unless additional information is specifically permitted by the commissioner:

(i) The name, address, and telephone number of the issuer of the securities;

(ii) The name, a brief description, and price of any security to be issued;

(iii) A brief description of the business of the issuer;

(iv) The type, number, and aggregate amount of securities being offered;

(v) The name, address, and telephone number of the person to contact for additional information; and

(vi) A statement that:

(a) Sales will be made only to accredited investors;

(b) No money or other consideration is being solicited or will be accepted by way of this general announcement; and

(c) The securities have not been registered with or approved by any state securities administrator or the securities and exchange commission and are being offered and sold pursuant to an exemption from registration;

(E) The issuer, in connection with an offer, may provide information in addition to the general announcement described in subdivision (b)(13)(D); provided, that either of the following applies:

(i) The information is delivered through an electronic database that is restricted to persons who are accredited investors; or

(ii) The information is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor;

(F) No telephone solicitation shall be conducted, unless prior to placing the telephone call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor;

(G) Dissemination of the general announcement described in subdivision (13)(D) to persons who are not accredited investors does not disqualify the issuer from claiming an exemption under this subdivision (b)(13); and

(H) No later than fifteen (15) days after the first sale in this state, the issuer shall file with the commissioner a notice of transaction, on a form adopted by the commissioner, accompanied by a consent to service of process, a copy of the general announcement, if one is made regarding the proposed offering, and a nonrefundable filing fee of five hundred dollars ($500);

(14) Any offer or sale of a charitable gift annuity as that term is defined in § 56-52-102;

(15) An offer or sale of a security effected by a Canadian broker-dealer and its agents if, at the time of the offer or sale, the Canadian broker-dealer and its agents have qualified for exemption from registration with the commissioner of commerce and insurance pursuant to § 48-1-109;

(16) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this part in a security that:

(A) Is rated at the time of the transaction by a nationally recognized statistical rating organization in one (1) of its four (4) highest rating

categories; or

(B) Has a fixed maturity or a fixed interest or dividend, if:

(i) A default has not occurred during the current fiscal year or within the three (3) previous fiscal years or during the existence of the issuer and any predecessor if less than three (3) fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve (12) months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(17) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this part in a security of a foreign issuer:

(A) That is a margin security defined in regulations or rules adopted by the board of governors of the federal reserve system; or

(B) That relates to securities, including american depository receipts (ADRs) representing such securities, that are exempted from § 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. § 78*l*(g)), pursuant to § 12(g)(3) (15 U.S.C. § 78*l*(g)(3)). This subdivision (b)(17)(B) shall apply if the foreign issuer of the securities is in compliance with the conditions of Rule 12g3-2(b) (17 CFR 240.12g3-2(b)), promulgated under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), and the primary trading market of the foreign issuer:

(i) Qualifies as a primary trading market as that term is defined in Rule 12g3-2(b), note 1 to paragraph (b)(1);

(ii) Maintains listing requirements;

(iii) Has delisting authority; and

(iv) Has disclosure requirements; or

(C) If, at the time of the transaction, the foreign issuer maintains a listing that:

(i) Includes the following:

(a) A description of the business and operations of the foreign issuer;

(b) The names of the executive officers and directors (or their corporate equivalents in the foreign issuer's country of domicile), if any;

(c) An audited balance sheet of the foreign issuer as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger, either an audited balance sheet of each party to the reorganization or merger or a pro forma balance sheet of the combined organization, in each case as of a date within eighteen (18) months before the date of the transaction; and

(d) An audited income statement for each of the foreign issuer's immediately preceding two (2) fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger either an audited income statement of each party to the reorganization or merger or a pro forma income statement of the combined organization, in each case as of a date within eighteen (18) months before the date of the transaction; and

(ii) Is published in a securities manual designated by the commissioner through rule promulgated in accordance with § 48-1-116;

(18) A nonissuer transaction by an investment adviser registered pursuant to § 203 of the federal Investment Advisers Act of 1940 (15 U.S.C. § 80b-3), with investments under management in excess of one hundred million dollars ($100,000,000) acting in the exercise of discretionary authority in a signed record for the account of others; and

(19) Any nonissuer transaction by or through a broker-dealer, registered or exempt from registration under this chapter, effecting an unsolicited order or offer to purchase; provided, that the broker-dealer acts solely as an agent for the purchaser, has no direct or indirect interest in the sale or distribution of the security ordered, and receives no commission, profit, or other compensation from any source other than the purchaser; and provided further, that the commissioner may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period.

48-11-301. Filing requirements.

(a) The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) Chapters 11-27 of this title must require or permit filing the document in the office of the secretary of state.

(c) The document must contain the information required by chapters 11-27 of this title and other information as may be required by the secretary of state. It may contain other information as well.

(d) The secretary of state may prescribe, and shall furnish upon request, forms for documents required or permitted to be filed by all chapters of this title. If the secretary of state has prescribed a mandatory form for the document, then the document must be in or on the prescribed form or a conformed copy thereof. In the absence of a specific rule, the document must be capable of being printed in ink in a clear and legible fashion on one (1) side of letter size paper.

(e) The document must be in the English language. A corporate name need not be in English if written in English letters, or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the chair of the board of directors of a domestic or foreign corporation, by its president, or by another of its authorized officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document must sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs. The document may, but need not, contain:

(1) The corporate seal;

(2) An attestation by the secretary or an assistant secretary;

(3) An acknowledgement, verification, or proof; or

(4) The date the document is signed, except that the date is required for the annual report for the secretary of state.

(h) If the secretary of state has prescribed a mandatory form and filing method for any filing required or authorized by this chapter, then the document must be in or on the prescribed form.

(i) The document must be delivered to the office of the secretary of state for filing in the manner and form prescribed by the secretary of state and must be accompanied by the correct filing fee, and any corporate tax, license fee, interest, or penalty required by chapters 11-27 of this title.

(j) Whenever this title permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document;

(2) The facts may include, but are not limited to:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document;

(3) As used in this subsection (j):

(A) "Filed document" means a document filed with the secretary of state under chapters 11-27 of this title, except chapter 25 or § 48-26-203; and

(B) "Plan" means a plan of domestication, nonprofit conversion, entity conversion, merger, or share exchange;

(4) None of the following provisions of a plan or filed document are made dependent on facts outside the plan or filed document:

(A) The name and address of any person required in a filed document;

(B) The registered office of any entity required in a filed document;

(C) The registered agent of any entity required in a filed document;

(D) The number of authorized shares and designation of each class or series of shares;

(E) The effective date of a filed document; or

(F) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given; and

(5) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in subdivision (j)(2)(A) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subdivision (j)(5) are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action

by the board of directors or the shareholders.

(k) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

(*l*) All documents submitted to the secretary of state for filing shall contain a statement that makes it clear that the documents are being filed pursuant to the Tennessee Business Corporation Act, compiled in chapters 11-27 of this title.

(m) The secretary of state may establish procedures for the filing of documents with the secretary of state by means of electronic transmission.

(n) Notwithstanding any other law to the contrary, whenever this title requires that an application or other document submitted to the secretary of state for filing be accompanied by a confirmation of good standing, tax clearance for termination or withdrawal, or other similar communication of taxpayer status by the commissioner of revenue, then that requirement is met, and a paper certificate need not accompany the application or other document, if the commissioner provides to the secretary of state electronic verification of the required information. Upon request of the person seeking certificate information, the commissioner shall provide to the secretary of state electronic verification in lieu of a paper certificate.

48-11-302. Forms and filing methods.

(a) The secretary of state may prescribe and furnish forms and filing methods for all filings required by this title.

(b) If the secretary of state so requires, then use of these forms and filing methods is mandatory.

48-11-306. Filing duty of secretary of state.

(a) If the form and filing of a document delivered to the office of the secretary of state for filing satisfies the requirements of this section, and of all other applicable sections or rules that add to these requirements, then the secretary of state must file it.

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with the secretary of state's name and official title and the date and time of receipt, on the document. After filing a document, except for filings pursuant to §§ 48-15-103, 48-25-109, and 48-26-203, the secretary of state shall deliver the document, with the filing fee receipt (or acknowledgment of receipt if no fee is required) attached, to the domestic or foreign corporation or its representative in due course. A domestic or foreign corporation or its representative may present to the secretary of state an exact or conformed copy of the document presented for filing together with the document, and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy "Filed", together with the secretary of state's name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the party filing the original of the document.

(c) If the secretary of state refuses to file a document, then the secretary of state must return it to the domestic or foreign corporation or its representative within a reasonable time after the document was received for filing, together with a brief, written explanation of the reason for the secretary of state's

refusal.

(d) The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy is in fact an exact or conformed copy.

(e) Any corporate document that meets the requirements of chapters 11-27 of this title and any applicable rules for filing and recording must be received, filed, and recorded by the appropriate office, notwithstanding any contrary requirements found in any other laws of this state.

48-26-203. Filing annual report with secretary of state.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The street address, including the zip code, of its registered office (and a mailing address such as a post office box if the United States postal service does not deliver to the registered office), the county in which the office is located, and the name of its registered agent at that office in this state;

(3) The street address, including the zip code, of its principal office (and a mailing address such as a post office box if the United States postal service does not deliver to the principal office);

(4) The names and business addresses, including the zip code, of its directors and principal officers; and

(5) The federal employer identification number (FEIN) of the corporation, or its corporation control number as assigned by the secretary of state.

(b) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation. An annual report of a domestic corporation that sets forth a change of the principal office of the domestic corporation shall be deemed to be an amendment to the charter of the domestic corporation, and the domestic corporation shall not be required to take any further action to amend the charter of the domestic corporation under chapter 20 of this title with respect to such amendment. An annual report of a foreign corporation that sets forth a change of the principal executive office of the foreign corporation shall be deemed to be an amendment to the certificate of authority of the foreign corporation, and the foreign corporation shall not be required to take any further action to amend the certificate of authority of the foreign corporation under § 48-25-104 with respect to such amendment. An annual report of a domestic or foreign corporation that sets forth a change of the registered office or registered agent of the domestic or foreign corporation shall be deemed to be a statement of change for purposes of §§ 48-15-102 and 48-25-108, respectively, and the domestic or foreign corporation shall not be required to take any further action under §§ 48-15-102 and 48-25-108,

respectively, with respect to such change.

(c) Every corporation shall file the annual report with the secretary of state on or before the first day of the fourth month following the close of the corporation's fiscal year, or upon a date set by rule by the secretary of state, if a domestic corporation or a foreign corporation.

(d) State and national banks shall not be required to file annual reports pursuant to this section.

(e) The secretary of state shall make a report to the commissioner of revenue, by the fifteenth day of each month, of any and all new corporations that have been licensed or authorized to operate in the state during the preceding month, giving the name and address of each new corporation, foreign or domestic.

(f) The secretary of state shall furnish the commissioner of revenue, by the fifteenth day of each month, a list of all corporations that have surrendered their charters, have had their charters revoked, or have ceased to do business in the state during the preceding month.

48-51-301. Filing requirements.

(a) The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) Chapters 51-68 of this title must require or permit filing the document in the office of the secretary of state.

(c) The document must contain the information required by chapters 51-68 of this title or required by rule. It may contain other information as well.

(d) The document must be capable of being printed in ink in a clear and legible fashion on one (1) side of letter size paper.

(e) The document must be in the English language. A corporate name need not be in English if written in English letters, or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the chair of the board of directors of a domestic or foreign corporation, by its president, or by another of its authorized officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document must sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs. The document may, but need not, contain:

(1) The corporate seal;

(2) An attestation by the secretary or an assistant secretary;

(3) An acknowledgement, verification, or proof; or

(4) The date the document is signed, except that the date is required for the annual report for the secretary of state.

(h) If the secretary of state has prescribed a mandatory form for the document under § 48-51-302, then the document must be in or on the prescribed form.

(i) The document must be delivered to the office of the secretary of state for

filing in the manner and form prescribed by the secretary of state and must be accompanied by the correct filing fee, and any corporate tax, license fee, interest, or penalty required by chapters 51-68 of this title.

(j) Whenever this title permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document;

(2) The facts may include, but are not limited to:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document;

(3) As used in this subsection (j):

(A) "Filed document" means a document filed with the secretary of state under chapters 51-68 of this title, except chapter 65 or § 48-66-203; and

(B) "Plan" means a plan of domestication, for-profit conversion, entity conversion, merger, or membership exchange;

(4) None of the following provisions of a plan or filed document are made dependent on facts outside the plan or filed document:

(A) The name and address of any person required in a filed document;

(B) The registered office of any entity required in a filed document;

(C) The registered agent of any entity required in a filed document;

(D) The number of authorized shares and designation of each class or series of shares or the number of authorized memberships and designation of each class or series of memberships;

(E) The effective date of a filed document; and

(F) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given; and

(5) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in subdivision (j)(2)(A) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subdivision (j)(5) are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

(k) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

(*l*) All documents submitted to the secretary of state for filing shall contain a statement that makes it clear that the documents are being filed pursuant to

chapters 51-68 of this title.

(m) The secretary of state may establish procedures for the filing of documents with the secretary of state by means of electronic transmission.

(n) Notwithstanding any other law to the contrary, whenever this title requires that an application or other document submitted to the secretary of state for filing be accompanied by a confirmation of good standing, tax clearance for termination, or withdrawal, or other similar communication of taxpayer status by the commissioner of revenue, then that requirement is met, and a paper certificate need not accompany the application or other document, if the commissioner provides to the secretary of state electronic verification of the required information. Upon request of the person seeking certificate information, the commissioner shall provide to the secretary of state electronic verification in lieu of a paper certificate.

48-51-302. Forms and filing methods.

(a) The secretary of state may prescribe and furnish forms and filing methods for all filings required by this title.

(b) If the secretary of state so requires, then use of these forms is mandatory.

48-51-306. Filing duty of secretary of state.

(a) If the form and filing of a document delivered to the office of the secretary of state for filing satisfies the requirements of § 48-51-301, and of all other applicable sections or rules that add to these requirements, then the secretary of state must file it.

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with the secretary of state's name and official title and the date and time of receipt, on the document. After filing a document, except for filings pursuant to §§ 48-55-103, 48-65-109, and 48-66-203, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgement of receipt if no fee is required, attached, to the domestic or foreign corporation or its representative in due course. A domestic or foreign corporation or its representative may present to the secretary of state an exact or conformed copy of the document presented for filing, together with the document and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy "Filed", together with the secretary of state's name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the party filing the original of the document.

(c) If the secretary of state refuses to file a document, then the secretary of state must return the document to the domestic or foreign corporation or its representative within a reasonable time after the document was received for filing, together with a brief, written explanation of the reason for the secretary of state's refusal.

(d) The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that

information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy is in fact an exact or conformed copy.

(e) Any corporate document that meets the requirements of chapters 51-68 of this title and any applicable rules for filing and recording must be received, filed, and recorded by the appropriate office, notwithstanding any contrary requirements found in any other laws of this state.

48-66-203. Annual report for secretary of state.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state an annual report that sets forth:

(1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The street address, including the zip code, of its registered office, the county in which the office is located, and the name of its registered agent at that office in this state;

(3) The street address, including the zip code, of its principal office (and a mailing address such as a post office box if the United States Postal Service does not deliver to the principal office);

(4) The names and business addresses, including the zip code, of its directors and principal officers; provided, that corporations which are exempt from the payment of income tax under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) and are currently operating shall not be required to comply with this subdivision (a)(4);

(5) If a domestic corporation, a statement that the corporation is a public benefit corporation or a mutual benefit corporation;

(6) If a foreign corporation, a statement whether the corporation, if it had been incorporated in this state, would be a public benefit or mutual benefit corporation;

(7) If a domestic religious corporation, a statement to that effect; and

(8) The federal employer identification number (FEIN) of the corporation, or its corporation control number as assigned by the secretary of state.

(b) The information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation. An annual report of a domestic corporation that sets forth a change of the principal office of the domestic corporation shall be deemed to be an amendment to the charter of the domestic corporation, and the domestic corporation shall not be required to take any further action to amend the charter of the domestic corporation under chapter 60 of this title with respect to such amendment. An annual report of a foreign corporation that sets forth a change of the principal executive office of the foreign corporation shall be deemed to be an amendment to the certificate of authority of the foreign corporation, and the foreign corporation shall not be required to take any further action to amend the certificate of authority of the foreign corporation under § 48-65-104 with respect to such amendment. An annual report of a domestic or foreign corporation that sets forth a change of the registered office or registered agent of the domestic or foreign corporation shall be deemed to be a statement of change for purposes of §§ 48-55-102 and 48-65-108, respectively, and the domestic or foreign corporation shall not be required to take any further action under §§ 48-55-102 and 48-65-108,

respectively, with respect to such change.

(c) Every corporation shall file the annual report with the secretary of state on or before the first day of the fourth month following the close of the corporation's fiscal year, or upon a date set by rule by the secretary of state, if a domestic corporation or a foreign corporation.

(d) The secretary of state shall make a report to the commissioner of revenue, by the fifteenth day of each month, of any and all new corporations that have been licensed or authorized to operate in the state during the preceding month, giving the name and address of each new corporation, foreign or domestic.

(e) The secretary of state shall furnish the commissioner of revenue, by the fifteenth day of each month, a list of all corporations that have surrendered their charters, have had their charters revoked, or have ceased to do business in the state during the preceding month.

48-101-308. Powers of corporations.

(a) The corporation has the following powers, together with all powers incidental thereto or necessary for the performance of those hereinafter stated, to:

(1) Have succession by its corporate name for the period specified in the certificate of incorporation, unless sooner dissolved as hereinafter provided;

(2) Sue and be sued and prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(3) Have and use a corporate seal and alter the same at pleasure;

(4) Acquire, whether by purchase, construction, exchange, gift, lease, or otherwise, and improve, maintain, extend, equip and furnish one (1) or more projects, which projects may be either within or without the corporate limits of the municipality with respect to which the corporation was organized, including all real and personal properties which the board of directors of the corporation may deem necessary in connection therewith and regardless of whether or not any such projects shall then be in existence;

(5) Finance or undertake one (1) or more projects, which may be located in one (1) or more municipalities in this state or outside this state, for one (1) or more institutions described in § 48-101-301. However:

(A) No project located in this state, but outside the corporate limits of the municipality with respect to which the corporation was organized, may be financed or undertaken except after the approval of the financing or undertaking thereof by appropriate resolution duly adopted by either:

(i) A corporation organized pursuant to this part by any municipality within the corporate limits of which the project is located; or

(ii) The governing body of any municipality within the corporate limits of which the project is located; and

(B) No project located outside this state may be financed or undertaken unless the hospital institution or institution of higher education for which the project is financed or undertaken maintains its principal place of business in this state prior to issuance of the debt and throughout the entire life of the debt;

(6) Lease to a hospital institution, clinic, not for profit blood bank or blood center, or an institution for higher education or a housing facility, one (1) or more projects upon such terms and conditions as the board of directors shall

deem proper and charge and collect rent therefor and terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods and at such rent as shall be determined by the board of directors of the corporation and/or to purchase any or all of its projects or that, upon payment of all of the indebtedness of the corporation, it may lease or convey any or all of its projects to the lessees thereof with or without consideration;

(7) Sell to a hospital institution, clinic, not for profit blood bank or blood center, or an institution for higher education or a housing facility or educational institution for individuals with physical and/or intellectual disability, one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable in accordance with sale contracts entered into pursuant to this part;

(8) Enter into loan agreements with a hospital institution, clinic, not for profit blood bank or blood center, or an institution for higher education or educational institutions for individuals with physical and/or intellectual disability or a housing facility with respect to one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable in accordance with this part;

(9) Sell, exchange, donate and convey any or all of its properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the corporation was organized;

(10) Borrow money and issue its bonds for the purpose of carrying out any of its powers;

(11) As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and pledge the revenues and receipts therefrom or from any thereof, and/or assign and pledge all or any part of its interest in and rights under the leases, sale contracts or loan agreements relating thereto or to any thereof;

(12) Employ and pay compensation to such employees and agents, including attorneys, as the board of directors shall deem necessary for the business of the corporation;

(13) Exercise all powers expressly given in its certificate of incorporation and establish bylaws and make all rules and regulations not inconsistent with the certificate of incorporation or this part, deemed expedient for the management of the corporation's affairs; and

(14) Provide information in accordance with § 9-21-134.

(b) The corporation does not have power to operate any project financed under this part as a business or in any manner except as specifically provided in this part.

48-101-504. Filing of registration statement — Initial registration — Fee.

(a)(1) Every charitable organization that intends to solicit contributions from or within this state, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the secretary of state,

upon forms prescribed by the secretary of state. The secretary of state may prescribe and furnish forms and filing methods for all filings required by this part. Any registration statement that contains false, misleading, deceptive, or incomplete information or documentation is not considered sufficient, except as specifically otherwise provided in this part.

(2) The initial registration statement shall contain the following information:

(A) The name of the organization and the purpose for which it was organized;

(B) The principal address of the organization and the address of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records;

(C) The names and addresses of any chapters, branches or affiliates in this state;

(D) The place where, and the date when, the organization was legally established, the form of its organization, and a reference to any determination of its tax exempt status under the Internal Revenue Code (26 U.S.C.);

(E) The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer;

(F) A statement as to whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others and submit a true copy of any contract or agreement with any professional solicitor or any other person who is directly or indirectly involved with the solicitation of contributions;

(G) A statement as to whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions;

(H) The general purpose or purposes for which the contributions to be solicited shall be used;

(I) The name or names under which it intends to solicit contributions;

(J) The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions;

(K) The names of the individuals or officers of the organization responsible for the final distribution of the contributions; and

(L) A statement as to whether any officer, director, manager, operator, or principal of the charitable organization has been the subject of an injunction, judgment, or administrative order or has been convicted of a felony.

(b) Except as otherwise herein provided, the registration forms and any other documents prescribed by the secretary of state shall be signed by two (2) authorized officers of the charitable organization, and such forms and documents shall be accompanied by an initial registration fee of fifty dollars ($50.00); provided, that bona fide Indian organizations whose principal purpose is to assist and promote the welfare of Indians shall be exempt from the registration fee. For the purposes of this subsection (b), a bona fide Indian organization shall be one that has been in existence for more than twenty (20) years and that carries out programs and provides services to federally recognized Indians.

(c) During its first year of operation, a newly registered charitable organization shall provide quarterly financial reports, due within thirty (30) days after the end of each quarter of its current fiscal year, containing the following

information:

(1) The gross amount of contributions received;

(2) The amount of contributions disbursed or to be disbursed to each charitable organization or charitable purpose represented;

(3) The aggregate amounts paid to any professional solicitor; and

(4) The amounts spent for overhead, expenses, commissions and similar purposes.

(d) Every charitable organization required to register pursuant to this part, having completed a fiscal year of operation, shall file with the secretary of state a financial report for its most recently completed fiscal year, in accordance with § 48-101-506(b)(1) and (2).

(e) Any organization which has applied for but not received a determination of tax exempt status shall file a copy of the completed application which has been submitted to the internal revenue service, and any letters received from the internal revenue service acknowledging receipt of the application.

(f) Any senior citizen center that obtains funding for the operation of its programs with funds provided through a contract with the state of Tennessee or through the federal government, as provided by the Older Americans Act of 1965 (42 U.S.C. § 3001 et seq.), or other contracts primarily designed for the benefit of aged persons, is exempt from the annual registration fee of this section, if the center attaches a complete copy of the contract to the registration form, and the secretary of state certifies the contract is valid. For the purposes of this subsection (f), "senior citizen center" means a charitable organization represented and held out to the general public as a facility which contracts for meals, education, physical fitness, social contact and comfort to be provided to aged persons for the general welfare of the local community.

48-101-506. Issuance of registration — Renewal — Withdrawal of registration.

(a) The secretary of state shall examine each application for conformity with the requirements of this part and all relevant rules and regulations.

(b) A renewal of registration shall be made in the same manner as the initial registration. The renewal registration shall be accompanied by the following:

(1)(A) A copy of a financial statement on forms approved by the secretary of state. Such report shall also specifically identify the amount of funds raised and all costs and expenses incidental thereto, all publicity costs, and costs of allocation or disbursement of funds raised. This report shall be signed by at least two (2) authorized officers of the organization, one of whom shall be the chief fiscal officer. Such officers shall certify that such report is true and correct to the best of their knowledge; and

(B) The secretary of state may require, by regulation, a copy of any and all forms required to be filed by the organization with the United States internal revenue service, and any other information the secretary deems appropriate to substantiate how funds were raised and spent by the organization;

(2)(A) The annual report of every charitable organization which received in excess of five hundred thousand dollars ($500,000) in gross revenue during the most recently completed fiscal year shall be accompanied by:

(i) An audited financial statement, presented in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing

an opinion thereon; and

(ii) Any and all forms required to be filed by a charitable organization with the United States internal revenue service;

(B) For the purpose of determining gross revenue for this subdivision (b)(2) only, grants received from government agencies and private foundations, designated by the internal revenue service as § 501(c)(3) organizations (26 U.S.C. § 501(c)(3)), shall be excluded.

(c)(1) The registration renewal statement shall be signed by two (2) authorized officers of the charitable organization, one (1) of whom shall be the chief fiscal officer, and such forms and documents shall be accompanied by a registration renewal fee in accordance with the following schedule:

Organization's Gross Revenue	Annual Filing Fee
$0--$50,000.00	$80.00
$50,000.01--$99,999.99	$120.00
$100,000.00--$249,999.99	$160.00
$250,000.00--$499,999.99	$200.00
$500,000.00--ABOVE	$240.00

(2) For purposes of this subsection (c), "organization's gross revenue" means the latest figures for annual gross revenue from whatever source reported by the organization to the secretary of state pursuant to subsection (b).

(d) Each charitable organization shall file all information required by this part with the secretary of state within six (6) months of the close of its fiscal year. The last day of the sixth month following the month in which the fiscal year of the organization ends shall be the anniversary date of the organization. All registrations shall expire each year on the anniversary date of the organization. Each annual registration application shall be received by the secretary of state on or before the anniversary date. Each charitable organization shall be required to supplement its registration application during the registration period as changes occur which affect the documentation required by § 48-101-504(a).

(e) The secretary of state may extend the time for filing a renewal application for a period not to exceed ninety (90) days, during which time the previous registration remains in effect. If an organization has been permitted additional time to file an exempt organization return with the internal revenue service, upon submission of proof of such extension, the secretary may extend the time for filing a renewal application for an additional period not to exceed sixty (60) days, during which time the previous registration remains in effect.

(f) Applications received after the expiration of the current registration period shall be assessed a late fee of twenty-five dollars ($25.00) for each month, or portion thereof, that the report is late filed. The late filing fee shall accompany every late filed application. In addition to the late fee provided for herein, any organization which files a late application is also subject to the imposition of civil penalties for violation of any portion of this part.

(g) Any person that intends to continue to solicit contributions after its anniversary date and fails to renew its registration by the time of the expiration thereof is in violation of this part.

(h) Any person that ceases solicitation activities after registration must notify the secretary of state of such fact within thirty (30) days after

solicitation activities end. Within ninety (90) days after the end of the solicitation activities or ninety (90) days after its fiscal year ends, that person shall file with the secretary financial documentation, pursuant to subsection (b).

48-228-203. Annual report for secretary of state.

(a) Each domestic LLC, and each foreign LLC authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(1) The name of the LLC and the jurisdiction under whose law it is incorporated;

(2) The street address and zip code of its registered office and the name of its registered agent at that office in this state;

(3) The street address, including the zip code, of its principal executive office (and a mailing address such as a post office box if the United States postal service does not deliver to the principal executive office);

(4) If the LLC is board-managed (or its equivalent), the names and business addresses, including the zip code, of its governors (or their equivalent);

(5) The names and business addresses, including the zip code, of its managers (or equivalent);

(6) The federal employer identification number (FEIN) of the LLC, or if such number has not been obtained, a representation that it has been applied for; and

(7) The number of members of the LLC at the date of filing.

(b) Information in the annual report shall be current as of the date the annual report is executed on behalf of the LLC.

(c) Every LLC shall file the annual report with the secretary of state on or before the first day of the fourth month following the end of the close of the LLC's fiscal year or upon a date set by rule by the secretary of state.

48-247-101. Filing requirements.

(a) The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) Chapters 201-248 of this title must require or permit filing the document in the office of the secretary of state.

(c) The document must contain the information required by chapters 201-248 of this title or required by rule. It may contain other information as well.

(d) The document must be capable of being printed in ink in a clear and legible fashion on one (1) side of letter size paper.

(e) The document must be in the English language. An LLC's or other business entity's name need not be in English if written in English letters, or Arabic or Roman numerals, and the certificate of existence or equivalent required of foreign business entities need not be in English, if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the chair of the board of directors of a domestic or foreign corporation, by its president, or by another of its authorized officers if a

corporate action is taken, by the chief manager, a governor, or another authorized manager if an LLC action is taken, by a general partner if a partnership action is taken or by the equivalent person of another business entity;

(2) If directors of a corporation or governors of a board-governed LLC have not been selected or the corporation or LLC has not been formed, by an incorporator or organizer; or

(3) If the business entity is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document must sign it and state beneath or opposite the signature the person's name and the capacity in which the person signs. The document may, but need not, contain:

(1) An attestation by the secretary or an assistant secretary;

(2) An acknowledgment, verification, or proof; or

(3) The date the document is signed, except that the date is required for the annual report for the secretary of state.

(h) If the secretary of state, pursuant to statutory authority or rule, has prescribed a mandatory form for the document, then the document must be in or on the prescribed form.

(i) The document must be delivered to the office of the secretary of state for filing in the form and manner prescribed by the secretary of state and must be accompanied by the current filing fee, and any tax, license fee, interest, or penalty required by chapters 201-248 of this title.

(j) The document must contain a statement that makes it clear that the document is being filed pursuant to the Tennessee Limited Liability Company Act, compiled in chapter 249, of this title.

(k) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

(*l*) Notwithstanding any other law to the contrary, whenever this title requires that an application or other document submitted to the secretary of state for filing be accompanied by a confirmation of good standing, tax clearance for termination, or withdrawal, or other similar communication of taxpayer status by the commissioner of revenue, then that requirement is met, and a paper certificate need not accompany the application or other document, if the commissioner provides to the secretary of state electronic verification of the required information. Upon request of the person seeking certificate information, the commissioner shall provide to the secretary of state electronic verification in lieu of a paper certificate.

(m) Any Tennessee LLC that has not timely filed with the department of revenue such information as required by the commissioner of revenue under prior law, chapter 421, § 1 of the Public Acts of 1997, is subject to administrative dissolution in accordance with the procedures specified in § 48-245-302. The certificate of authority of any foreign LLC that has not timely filed such information with the department is subject to revocation as provided in § 48-246-502. Upon certification by the commissioner that it has complied with the information reporting requirements that were required under prior law, an LLC that has been administratively dissolved or that has had its certificate of authority revoked for failure to timely file such information may be reinstated.

48-247-102. Mandatory forms and filing methods.

(a) **Mandatory Forms.** The secretary of state may prescribe and furnish forms and filing methods for all filings required by this title.

(b) If the secretary of state so requires, then use of these forms and filing methods is mandatory.

48-247-105. Filing duty of secretary of state.

(a) If the form and filing of a document delivered to the office of the secretary of state for filing satisfies the requirements of § 48-247-101, and of all other applicable sections or rules that add to these requirements, then the secretary of state must file it.

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with the secretary of state's name and official title and the date and time of receipt, on the document. After filing a document, except for filings pursuant to §§ 48-208-103, and 48-228-203, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign LLC or its representative in due course. A domestic or foreign LLC or its representative may present to the office of the secretary of state an exact or conformed copy of the document presented for filing together with the document, and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy "Filed", together with the secretary of state's name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the party filing the original of the document.

(c) If the secretary of state refuses to file a document, then the secretary of state must return it to the domestic or foreign LLC or its representative immediately after the document was received for filing, together with a brief, written explanation of the reason for the refusal.

(d) The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or in part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy is in fact an exact or conformed copy.

(e) Any LLC document that meets the requirements of chapters 201-248 of this title and all applicable rules for filing and recording must be received, filed, and recorded by the appropriate office, upon payment of the appropriate fee and taxes, if any, notwithstanding any contrary requirements found in any other laws of this state.

48-249-114. Personal liability.

(a) **Limited liability rule.**

(1) Except as provided in subsections (d) and (f):

(A) The debts, obligations and liabilities of an LLC, whether arising in contract, tort or otherwise, are solely the debts, obligations and liabilities

of the LLC;

(B) A member, holder, director, manager, officer, employee or other agent of an LLC does not have any personal obligation, and is not otherwise personally liable, for the acts, debts, liabilities or obligations of the LLC; and

(C) A member, holder, director, manager, officer, employee or other agent of an LLC does not have any personal obligation, and is not otherwise personally liable, for the acts or omissions of any other member, holder, manager, officer, director, employee or other agent of the LLC.

(2) Notwithstanding subdivisions (a)(1)(B) and (C), a member, holder of financial rights, director, manager, officer, employee or other agent may be personally liable by reason of such person's own acts or omissions.

(b) **Limited liability after dissolution.** The limitation on liability described in subsection (a) continues in full force, regardless of any dissolution, winding up or termination of an LLC.

(c) **Member not a proper party to proceeding.** A member, holder, director, manager, officer, employee or other agent of an LLC is not a proper party to a proceeding by or against an LLC, except:

(1) Where the object of the proceeding is to enforce such person's right against, or liability to, the LLC;

(2) In a derivative proceeding brought under this chapter or the LLC documents; or

(3) Where the proceeding asserts personal liability of such person, as described in subsection (a).

(d) **Sales tax liability.** Notwithstanding any other provision of this chapter to the contrary, each member, manager, director, officer, employee, agent or other person required to collect, truthfully account for and pay over to the department of revenue any tax collected from the customers of a domestic or foreign LLC shall be personally liable for those taxes, in the same manner as responsible persons of a corporation under § 67-1-1443.

(e) **Failure to follow formalities not to generate personal liability.** The failure of a domestic or foreign LLC to observe the usual entity formalities or requirements relating to the exercise of its powers or management of its business is not a ground for imposing personal liability on the members, holders, managers, directors, officers, employees or other agents of the domestic or foreign LLC.

(f) **Voluntary unlimited liability.**

(1) Notwithstanding anything to the contrary in this section, the articles may provide that one (1) or more specifically identified members, as named in the articles, will be personally liable for all of the debts, obligations and liabilities of the LLC. If that provision is made, each such specifically identified member shall be liable to the same extent as a general partner in a general partnership; provided, that:

(A) In order to be effective, each member so identified shall sign the articles or an amendment to the articles containing this provision; and

(B) Each member identified in the articles shall continue to be personally liable for debts, obligations and liabilities of the LLC until the articles are amended to delete the member's name, but, except as provided in subdivision (f)(2), the amendment shall be signed by a person authorized to bind the LLC under § 48-249-402, and by any remaining members who continue to be identified in the articles as being personally liable for the

debts, obligations and liabilities of the LLC.

(2) A member who is identified in the articles as being personally liable has the power, but not necessarily the right, to file an amendment to the articles, stating that such member will not be liable for any future debts, obligations and liabilities of the LLC, except with respect to persons that have reasonably relied upon the articles.

(3)(A) An amendment to the articles filed under subdivisions (f)(1) and (2) shall be effective immediately, except that such an amendment is not effective against persons reasonably relying upon the articles naming the member as individually liable for the debts, obligations and liabilities of the LLC, until the passage of ninety (90) days from the filing of the amendment to the articles.

(B) Notwithstanding subdivision (f)(3)(A), such member shall continue to be liable for all debts and obligations of the LLC incurred by the LLC during the time that the member was identified in the articles as being personally liable.

48-249-202. Articles of organization.

(a) **Mandatory contents.** The articles shall set forth:

(1) A name for the LLC that satisfies the requirements of § 48-249-106;

(2) The street address and zip code of the initial registered office of the LLC, the county in which the office is located, and the name of its initial registered agent at that office;

(3) The street address and zip code of the principal executive office of the LLC (and a mailing address such as a post office box if the United States postal service does not deliver to the principal executive office), and the county in which the office is located;

(4) A statement as to whether the LLC will be member-managed, manager-managed, or director-managed;

(5) If the LLC will have more than six (6) members at the date of filing of the articles, a statement of the number of members at the date of the filing of the articles;

(6) If, under § 48-249-114(f), one (1) or more members are personally liable for all of the debts, obligations and liabilities of the LLC, the information required in § 48-249-114(f);

(7) If the existence of the LLC is to begin upon a future date, or the occurrence of a specific event, the future date or a description of the specific event; except that, in no event may the future date, or the actual occurrence of the specific event, be more than ninety (90) days after the filing of the articles in compliance with § 48-249-201;

(8) If the LLC, while being formed under Tennessee law, is not to engage in business in Tennessee, a statement that the LLC is prohibited from engaging in business in Tennessee;

(9) If the duration of the LLC is to be limited to a specific period of time or term of years, such limitation and the future date on which dissolution is to occur or the term of years shall be stated in the articles; and

(10) Any additional information as required by the secretary of state.

(b) **Optional contents.**

(1) The articles may set forth:

(A) Provisions permitted to be set forth in an operating agreement;

(B) Other provisions not inconsistent with law, relating to the management of the business or the regulation of the affairs of the LLC;

(C) If the LLC is director-managed, a provision eliminating or limiting the personal liability of a director to the LLC or its members for monetary damages for breach of fiduciary duty as a director; provided, that such provision shall not eliminate or limit the liability of a director:

(i) For any breach of the director's duty of loyalty to the LLC or its members;

(ii) For acts or omissions not in good faith, or that involve intentional misconduct or a knowing violation of law; or

(iii) Under § 48-249-307; and

(D) A statement to the effect that § 48-249-503(b)(2) shall not apply to the LLC, regardless of whether the LLC falls within the definition of a "family LLC" under § 48-249-102(10).

(2) No provision included in the articles under subdivision (b)(1)(C) shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. All references in subdivision (b)(1)(C) to a "director" are also deemed to refer to a member who, under the operating agreement, has been delegated some or all of the rights of a director in the management and conduct of the LLC's business, as set forth in § 48-249-403(i)(2). If the secretary of state prescribes a form for articles, such form shall contain substantially the following statement: "If the LLC desires that § 48-249-503(b)(2), which restricts withdrawals from a 'family LLC', NOT apply to the LLC, regardless of whether the LLC falls within the definition of a 'family LLC', place an 'x' in the following space: ____."

(c) **Statement of powers not necessary.** It is not necessary to set forth in the articles any of the LLC powers granted by this chapter.

(d) **Nonwaivable provisions; conflict with operating agreement.** The articles may not contain any provisions prohibited by § 48-249-205(b). As to all other matters, if the articles are inconsistent with any provision of an operating agreement, the articles shall control.

48-249-904. Application for certificate of authority.

(a) **Application requirements.** Before transacting business in this state, a foreign LLC shall obtain a certificate of authority. A foreign LLC may obtain a certificate of authority by complying with this section and filing with the secretary of state an application for certificate of authority setting forth the following:

(1) The name of the foreign LLC;

(2) The name of the jurisdiction under the laws of which it is formed and the date of its formation;

(3) The street address, including the zip code, of its registered office in this state, and the name of its registered agent at that office;

(4) The street address, including the zip code, of the principal executive office of the foreign LLC (and a mailing address such as a post office box if the United States postal service does not deliver to the principal executive office);

(5) If § 48-249-309(i) is applicable to the foreign LLC, the information required under § 48-249-309(i);

(6) If the foreign LLC has more than six (6) members at the date of the filing of the application for the certificate of authority, the number of members of the LLC at the date of filing the application for the certificate of authority; and

(7) Any additional information as required by the secretary of state.

(b) **Submission of application.** The foreign LLC shall deliver with the completed application a certificate of existence, or document of similar import, duly authenticated by the secretary of state or other official having custody of limited liability company records in the jurisdiction of its formation. The certificate shall not bear a date of more than two (2) months prior to the date the application for the certificate of authority is filed in this state.

48-249-1005. Filing requirements.

(a) **Eligibility for filing.** The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) **Permitted or required.** This chapter requires or permits filing the document with the secretary of state.

(c) **Required and permissive information.** The document must contain the information required by this chapter or by rule. The document may contain other information as well.

(d) **Format.** The document must be capable of being printed in ink, in a clear and legible fashion, on one (1) side of letter size paper.

(e) **English language.** The document must be in the English language. An LLC's or other entity's name need not be in English, if it is written in English letters, or Arabic or Roman numerals, and the certificate of existence, or equivalent document of a foreign entity, need not be in English, if it is accompanied by a reasonably authenticated English translation.

(f) **Execution.** The document must be executed by, or by an authorized representative of, the person submitting the document for filing.

(g) **Form of execution.** The person executing the document must sign it and state, beneath or opposite the signature, the person's name and the capacity in which the person signs, if other than the person's individual capacity. The document may, but need not, contain:

(1) An attestation by the secretary or an assistant secretary of a corporation;

(2) An acknowledgment, verification, or proof; or

(3) The date the document is signed, except that the date is required for the annual report for the secretary of state.

(h) **Mandatory form.** If the secretary of state, pursuant to statutory authority, has prescribed a mandatory form for the document, then the document must be in or on the prescribed form.

(i) **Delivery to secretary of state.** The document must be delivered to the secretary of state for filing in the manner and form prescribed by the secretary of state and must be accompanied by the current filing fee and any tax, license fee, interest, or penalty required by this chapter.

(j) **Required statement.** The document must contain a statement that makes it clear that the document is being filed pursuant to this chapter.

(k) **Power to promulgate rules.** The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any docu-

ment to be filed with the secretary of state.

(*l*) **Verification by commissioner of revenue.** Notwithstanding any other law to the contrary, whenever this chapter requires that an application or other document submitted to the secretary of state for filing be accompanied by a confirmation of good standing, tax clearance for termination, or withdrawal, or other similar communication of taxpayer status by the commissioner of revenue, then the requirement is met, and a paper certificate need not accompany the application or other document, if the commissioner provides to the secretary of state electronic verification of the required information. Upon request of the person seeking certificate information, the commissioner shall provide to the secretary of state electronic verification in lieu of a paper certificate.

(m) **Prior law.** Any LLC that has not timely filed with the department of revenue such information as required by the commissioner of revenue under prior law, chapter 421, § 1 of the Public Acts of 1997, is subject to administrative dissolution in accordance with the procedures specified in § 48-249-605. The certificate of authority of any foreign LLC that has not timely filed such information with the department is subject to revocation as provided in § 48-249-909. Upon certification by the commissioner of revenue that a domestic LLC or foreign LLC has complied with the information reporting requirements that were required under prior law, the domestic LLC or foreign LLC that has been administratively dissolved, or that has had its certificate of authority revoked for failure to timely file such information, may be reinstated.

48-249-1006. Forms and filing methods for annual report and other documents.

(a) **Annual report.** The secretary of state may prescribe a form and filing method for the annual report. If the secretary of state prescribes a form or filing method for the annual report, then the use of the prescribed form or filing method for the annual report is mandatory.

(b) **Other forms.** The secretary of state may prescribe forms and filing methods for other documents that are required or permitted to be filed with the secretary of state by this chapter. If the secretary of state prescribes forms or filing methods for other documents that are required or permitted to be filed with the secretary of state by this chapter, then the secretary of state must furnish access to those forms and filing methods on request.

48-249-1009. Filing duty of secretary of state.

(a) **Requirements to complete filing.** If the form and filing of a document delivered to the office of the secretary of state for filing satisfies the requirements of § 48-249-1005, and of all other applicable sections or rules that add to these requirements, then the secretary of state must file it.

(b) **Procedure.** The secretary of state completes the filing of a document by stamping or otherwise endorsing "Filed", together with the secretary of state's name and official title and the date and time of receipt, on the document. After completing the filing of a document, except for filings pursuant to §§ 48-249-111 and 48-249-1017, the secretary of state shall deliver, in due course, the document, with the filing fee receipt attached, or acknowledgment of receipt if no fee is required, to the domestic or foreign LLC, other person required or permitted by this chapter to file the document, or representative of the

domestic or foreign LLC, or other person that delivered the document for filing. A domestic or foreign LLC, other person or representative of the domestic or foreign LLC, or other person may deliver to the office of the secretary of state an exact or conformed copy of the document delivered for filing, together with the document, and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy "Filed", together with the secretary of state's name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the person filing the original of the document.

(c) **Refusal to file.** If the secretary of state refuses to complete the filing of a document, then the secretary of state must return it to the domestic or foreign LLC, other person or representative of the domestic or foreign LLC, or other person that delivered the document for filing immediately after the document was received for filing, together with a brief, written explanation of the reason for the refusal.

(d) **Effect of filing or refusal to file.** The secretary of state's duty to complete the filing of documents under this section is ministerial. The secretary of state's completing the filing or refusing to complete the filing of a document does not:

(1) Affect the validity or invalidity of the document in whole or in part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy is in fact an exact or conformed copy.

(e) **Conflict with other law.** Any document that meets the requirements of this chapter and all applicable rules for filing and recording must be received, filed, or recorded by the appropriate office upon payment of the appropriate fee and taxes, if any, notwithstanding any contrary requirements found in any other laws of this state.

48-249-1017. Annual report for secretary of state.

(a) **Required contents.** Each domestic LLC and each foreign LLC authorized to transact business in this state shall file with the secretary of state an annual report that sets forth the following:

(1) The name of the domestic or foreign LLC and the jurisdiction under the laws of which it is formed;

(2) The street address and zip code of its registered office and the name of its registered agent at that office in this state;

(3) The street address, including the zip code, of its principal executive office (and a mailing address such as a post office box if the United States postal service does not deliver to the principal executive office);

(4) If the domestic or foreign LLC is a director-managed LLC or a manager-managed LLC, or its equivalent, the names and business addresses, including the zip code, of its directors or managers, or their equivalents, as applicable;

(5) The names and business addresses, including the zip code, of its officers, or their equivalents, if any;

(6) The federal employer identification number (FEIN) of the domestic or foreign LLC, or if such number has not been obtained, a representation that

it has been applied for; and

(7) If the domestic or foreign LLC will have more than six (6) members as of the date the annual report is executed on behalf of the domestic or foreign LLC, the number of members of the domestic or foreign LLC as of the date the annual report is executed on behalf of the domestic or foreign LLC.

(b) **Information to be current.** Information in the annual report shall be current as of the date the annual report is executed on behalf of the domestic or foreign LLC. An annual report of a domestic LLC that sets forth a change of the principal executive office of the domestic LLC shall be deemed to be an amendment to the articles of organization of the domestic LLC, and the domestic LLC shall not be required to take any further action to amend the articles of organization of the domestic LLC under § 48-249-204(a) with respect to such amendment. An annual report of a foreign LLC that sets forth a change of the principal executive office of the foreign LLC shall be deemed to be an amendment to the certificate of authority of the foreign LLC, and the foreign LLC shall not be required to take any further action to amend the certificate of authority of the foreign LLC under § 48-249-906 with respect to such amendment. An annual report of a domestic or foreign LLC that sets forth a change of the registered office or registered agent of the domestic or foreign LLC shall be deemed to be a statement of change for purposes of § 48-249-110(a), and the domestic or foreign LLC shall not be required to take any further action under § 48-249-110(a) with respect to such change.

(c) **Filing date.** Each domestic LLC and each foreign LLC authorized to transact business in this state shall file the annual report with the secretary of state on or before the first day of the fourth month following the end of the close of the domestic or foreign LLC's fiscal year or upon a date set by rule by the secretary of state.

49-7-159. Cause of action against public institution of higher education for loss, damage, injury, or death from COVID-19 prohibited — Exceptions. [Repealed effective July 1, 2022. See Compiler's Note.]

There is no cause of action against a public institution of higher education for any loss, damage, injury, or death arising from COVID-19, as defined in § 29-34-802(a), unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission of the institution or its employee or agent constituting gross negligence or willful misconduct. The requirements of § 29-34-802(c) apply to any such cause of action when applicable.

50-1-506. Injunction against person who commits harassment against state employee.

(a) The state may, through the office of the attorney general, seek an injunction against a person who commits harassment against a state employee. The injunction may be sought in any court of competent jurisdiction having the power to grant injunctions. This section does not authorize any cause of action unrelated to a person's status as a state employee. This section does not authorize a court to issue an injunction prohibiting activities that are protected by the constitutions of this state or the United States, including, but

not limited to, political speech.

(b) Notwithstanding § 50-1-502, as used in this section, "state employee" has the same meaning as defined in § 8-42-101.

50-6-115. Extraterritorial application of chapter — Coverage of construction services providers.

(a) For purposes of this section, an employee is considered to be temporarily in a state working for an employer if the employee is working for such employee's employer in a state other than the state where such employee is primarily employed for no more than fourteen (14) consecutive days, or no more than twenty-five (25) days total, during a calendar year. This subsection (a) does not apply to construction services providers, as defined in § 50-6-901, performing work in this state.

(b)(1) If an employee in this state who is subject to this chapter temporarily leaves this state incidental to the employee's employment and receives an accidental injury arising out of and in the course and scope of the employee's employment, the employee, or the employee's beneficiaries in the case of an injury that results in the employee's death, shall be entitled to the benefits of this chapter as if the employee was injured in this state.

(2) If an employee, while working outside the territorial limits of this state other than temporarily, suffers an injury on account of which the employee, or, in the event of the employee's death, the employee's dependents, would have been entitled to the benefits provided by this chapter had the injury occurred within this state, the employee, or in the event of the employee's death resulting from the injury, the employee's dependents, shall be entitled to the benefits provided by this chapter; provided, that at the time of the injury:

(A) The employment was principally localized within this state;

(B) The contract of hire was made in this state; or

(C) If at the time of the injury the injured worker was a Tennessee resident and there existed a substantial connection between this state and the particular employer and employee relationship.

(c)(1) An employee from another state and the employee's employer are exempt from this chapter while the employee is temporarily in this state performing work for the employer if:

(A) The employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of the other state to cover the employee's employment while in this state;

(B) The extraterritorial provisions of this chapter are recognized in the other state; and

(C) Employees and employers who are covered in this state are likewise exempted from the application of the workers' compensation insurance or similar laws of the other state.

(2) The benefits under the workers' compensation insurance or similar laws of the other state, or other remedies under similar law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while temporarily working for that employer in this state.

(3) A certificate from the duly authorized officer of the appropriate department of another state certifying that the employer of such other state

is insured in that state and has provided extraterritorial coverage insuring employees while working in this state is prima facie evidence that the employer carries such workers' compensation insurance.

(4) Whenever in any appeal or other litigation the construction of the laws of another jurisdiction is required, the courts shall take judicial notice of such construction of the laws of the other jurisdiction.

(5) When an employee has a claim under the workers' compensation insurance laws of another state, territory, province, or foreign nation for the same injury or occupational disease as the claim filed in this state, the total amount of compensation paid or awarded under such other workers' compensation law shall be credited against the compensation due under this chapter.

(6) Subdivisions (c)(1)-(3) do not apply to construction services providers, as defined in § 50-6-901, performing work in this state.

(d)(1) Any employer who is insured in this state for workers' compensation under this chapter, and who has extraterritorial coverage under this chapter, for their employees while such employees are temporarily working outside this state within the meaning of subsection (a) may obtain a certificate evidencing such coverage at the time that the application for certification is made from the commissioner of commerce and insurance.

(2) In order to obtain a certificate under subdivision (d)(1), an employer shall:

(A) File an application with the commissioner of commerce and insurance, on a form that is approved by the commissioner of commerce and insurance;

(B) Pay a filing fee to the department of commerce and insurance in the amount of one hundred dollars ($100). The commissioner of commerce and insurance may change the amount of the filing fee required by this subdivision (d)(2)(B) by promulgating a rule pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as necessary to ensure that the proceeds of such filing fees are sufficient to offset the cost of processing applications and issuing the certificates authorized by this subsection (d); and

(C) Submit to the commissioner of commerce and insurance a copy of the declaration page from the employer's workers' compensation insurance policy, or such proof as the commissioner of commerce and insurance may require to demonstrate that the employer is self insured for workers' compensation and the territorial limits of such coverage.

(3) The commissioner of commerce and insurance is authorized to issue a certificate that certifies that, at the time that the application for certification is made, the applicant employer in this state is insured for workers' compensation under this chapter, and that such employers have extraterritorial coverage under this chapter, for their employees while such employees are temporarily working outside this state within the meaning of subsection (a).

(e)(1) A construction services provider, as defined in § 50-6-901, performing work in this state shall maintain workers' compensation insurance coverage throughout the duration of that work and must designate "Tennessee" in section 3A of a construction service provider's workers' compensation insurance policy or endorsement.

(2) A construction services provider who violates this subsection (e) is subject to a penalty issued by the administrator or administrator's designee

of up to the greater of:

(A) One thousand dollars ($1,000); or

(B) One and one half (1.5) times the average yearly workers' compensation premium for the construction services provider based on the appropriate assigned risk plan advisory prospective loss cost and multiplier for the construction services provider as of the date of determination that the construction services provider performs work in this state and did not secure payment of compensation pursuant to this subsection (e).

50-6-207. Schedule of compensation.

The following is the schedule of compensation to be allowed employees under this chapter:

(1) **Temporary Total Disability.**

(A) For injury producing temporary total disability, sixty-six and two-thirds percent (66 ⅔%) of the average weekly wages as defined in this chapter, subject to the maximum weekly benefit and minimum weekly benefit; provided, that if the employee's average weekly wages are equal to or greater than the minimum weekly benefit, the employee shall receive not less than the minimum weekly benefit; and provided, further, that if the employee's average weekly wages are less than the minimum weekly benefit, the employee shall receive the full amount of the employee's average weekly wages, but in no event shall the compensation paid be less than the minimum weekly benefit. Where a fractional week of temporary total disability is involved, the compensation for each day shall be one seventh ($^1/_7$) of the amount due for a full week;

(B)(i) An employer may choose to continue to compensate an injured employee at the employee's regular wages or salary during the employee's period of temporary total and temporary partial disability. The payments shall not result in an employee's receiving less than the employee would otherwise receive for temporary disability benefits under this chapter; however, a court or the department has no authority to require an employer to pay any temporary disability benefits required by subdivision (1)(A), in addition to the employee's regular wages or salary;

(ii) When an employee receives payments under subdivision (1)(B)(i) and the employee's claim for compensation under this chapter is determined by a court or settlement to be compensable, the employer shall be given credit for the payments. The credit shall be no more than the employee would have been otherwise paid under subdivision (1)(A), and any amount paid beyond the amount that would have otherwise been paid under subdivision (1)(A) shall not be credited against any award for permanent disability;

(C) Any person who has drawn unemployment compensation benefits and who subsequently receives compensation for temporary disability benefits under a workers' compensation law with respect to the same period shall be required to repay the unemployment compensation benefits; provided, that the amount to be repaid does not exceed the amount of temporary disability benefits;

(D) An employee claiming a mental injury, as defined by § 50-6-102, occurring on or after July 1, 2009, shall be conclusively presumed to be at maximum medical improvement upon the earliest occurrence of the

following:

(i) At the time the treating psychiatrist concludes the employee has reached maximum medical improvement; or

(ii) [Deleted by 2013 amendment, effective July 1, 2014.]

(iii) One hundred four (104) weeks after the date of injury in the case of mental injuries where there is no underlying physical injury;

(E) An employee claiming an injury as defined in § 50-6-102, when the date of injury is on or after July 1, 2014, shall be conclusively presumed to be at maximum medical improvement when the treating physician ends all active medical treatment and the only care provided is for the treatment of pain or for a mental injury that arose primarily out of a compensable physical injury. The employer shall be given credit against an award of permanent disability for any amount of temporary total disability benefits paid to the employee after the date that the employee attains maximum medical improvement as determined by a workers' compensation judge.

(2) **Temporary Partial Disability.**

(A) In all cases of temporary partial disability, the compensation shall be sixty-six and two-thirds percent (66 ⅔%) of the difference between the average weekly wage of the worker at the time of the injury and the wage the worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of the disability, not, however, beyond four hundred fifty (450) weeks, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the same maximum, as stated in subdivision (1). In no event shall the compensation be less than the minimum weekly benefit;

(B) In all cases of temporary partial disability for claims with a date of injury on or after July 1, 2014, the compensation shall be sixty-six and two-thirds percent (66 ⅔%) of the difference between the average weekly wage of the worker at the time of the injury and the wage the worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of the disability, but payment shall not extend beyond four hundred fifty (450) weeks. Payment shall be made at the intervals when the wage was payable, as nearly as may be, and subject to the same maximum, as stated in subdivision (1). In no event shall the compensation be less than the minimum weekly benefit;

(C) In any case when a dispute exists over the date of the employee's attainment of maximum medical improvement, the employer shall be given credit against an award of permanent disability for any amount of temporary partial disability paid to the employee after the date on which the workers' compensation judge determines maximum medical improvement.

(3) **Permanent Partial Disability.**

(A) In case of disability partial in character but adjudged to be permanent, at the time the injured employee reaches maximum medical improvement the injured employee shall be paid sixty-six and two-thirds percent (66 ⅔%) of the employee's average weekly wages for the period of compensation, which shall be determined by multiplying the employee's impairment rating by four hundred fifty (450) weeks. The award set out in this subdivision (3)(A) shall be referred to as the "original award." The injured employee shall receive these benefits, in addition to the benefits provided in subdivisions (1) and (2) and those provided by § 50-6-204,

whether the employee has returned to work or not; and

(B) If at the time the period of compensation provided by subdivision (3)(A) ends, or one hundred eighty (180) days after the employee reaches maximum medical improvement, whichever is later, the employee has not returned to work with any employer or has returned to work and is receiving wages or a salary that is less than one hundred percent (100%) of the wages or salary the employee received from the employee's pre-injury employer on the date of injury, the injured employee may file a claim for increased benefits. If appropriate, the injured employee's original award as determined under subdivision (3)(A) shall be increased by multiplying the original award by a factor of one and thirty-five one hundredths (1.35). The award set out in this subdivision (3)(B) shall be referred to as the "resulting award." In addition, the injured employee's resulting award shall be further increased by multiplying the resulting award by the product of the following factors, if applicable:

(i) Education: one and forty-five one hundredths (1.45), if the employee lacks a high school diploma or general equivalency diploma;

(ii) Age: one and two tenths (1.2), if the employee was more than forty (40) years of age at the time the period of compensation ends, or one hundred eighty (180) days after the employee reaches maximum medical improvement, whichever is later; and

(iii) Unemployment rate: one and three tenths (1.3), if the unemployment rate, in the Tennessee county where the employee was employed by the employer on the date of the workers' compensation injury, was at least two (2) percentage points greater than the yearly average unemployment rate in Tennessee according to the yearly average unemployment rate compiled by the department for the year immediately prior to the expiration of the period of compensation;

(C) In determining the employee's increased award pursuant to subdivision (3)(B), the employer shall be given credit for payment of the original award of benefits as determined under subdivision (3)(A) against the increased award.

(D) Any employee may file a claim for increased benefits under subdivision (3)(B) by filing a new petition for benefit determination, on a form prescribed by the administrator, with the bureau no more than one (1) year after the period of compensation provided in subdivision (3)(A) ends or one (1) year after the one hundred eighty-day period after the employee reaches maximum medical improvement, whichever is later. Any claim for increased benefits under this subdivision (3)(D) shall be forever barred, unless the employee files a new petition for benefit determination with the bureau within one (1) year after the period of compensation for the subject injury ends or one (1) year after the one hundred eighty-day period after the employee reaches maximum medical improvement, whichever is later. Under no circumstances shall an employee be entitled to additional benefits when:

(i) The employee's loss of employment is due to the employee's voluntary resignation or retirement; provided, however, that the resignation or retirement does not result from the work-related disability;

(ii) The employee's loss of employment is due to the employee's misconduct connected with the employee's employment; or

(iii) The employee remains employed but received a reduction in salary, wages, or hours that is concurrent with a reduction in salary, wages or reduction in hours that affected at least fifty percent (50%) of all hourly employees operating at or out of the same location.

(E) Nothing in this subdivision (3) shall prohibit the employer and employee from settling the issue of additional benefits at any time after the employee reaches maximum medical improvement. Any settlement or award of additional permanent partial disability benefits pursuant to this subdivision (3) shall give the employer credit for prior permanent partial disability benefits paid to the employee.

(F) Subdivision (3)(B) shall not apply to injuries sustained by an employee who is not eligible or authorized to work in the United States under federal immigration laws.

(G) The total amount of compensation payable in this subdivision (3) shall not exceed the maximum total benefit. The payment of temporary total disability benefits or temporary partial disability benefits shall not be included in calculating the maximum total benefit.

(H) All cases of permanent partial disability shall be apportioned to the body as a whole, which shall have a value of four hundred fifty (450) weeks, and there shall be paid compensation to the injured employee for the proportionate loss of use of the body as a whole resulting from the injury. If an employee has previously sustained an injury compensable under this section and has been awarded benefits for that injury, the injured employee shall be paid compensation for the period of temporary total disability or temporary partial disability and only for the degree of permanent disability that results from the subsequent injury.

(4) **Permanent Total Disability.**

(A)(i) For permanent total disability as defined in subdivision (4)(B), sixty-six and two-thirds percent (66 ⅔%) of the wages received at the time of the injury, subject to the maximum weekly benefit and minimum weekly benefit; provided, that if the employee's average weekly wages are equal to or greater than the minimum weekly benefit, the employee shall receive not less than the minimum weekly benefit; provided, further, that if the employee's average weekly wages are less than the minimum weekly benefit, the employee shall receive the full amount of the employee's average weekly wages, but in no event shall the compensation paid be less than the minimum weekly benefit. This compensation shall be paid during the period of the permanent total disability until the employee is, by age, eligible for full benefits in the Old Age Insurance Benefit Program under the Social Security Act, compiled in 42 U.S.C. § 401 et seq.; provided, that with respect to disabilities resulting from injuries that occur less than five (5) years before the date when the employee is eligible for full benefits in the Old Age Insurance Benefit Program as referenced previously in this subdivision (4)(A)(i) or after the employee is eligible for such benefits, permanent total disability benefits are payable for a period of two hundred sixty (260) weeks. The compensation payments shall be reduced by the amount of any old age insurance benefit payments attributable to employer contributions that the employee may receive under title 42, chapter 7, title II of the Social Security Act, 42 U.S.C. § 401 et seq. Notwithstanding any statute or court decision to the contrary, the statutory social security offset provided by this section shall have no applicability to death benefits

awarded to a deceased worker's dependents pursuant to this chapter;

(ii) Notwithstanding any other law to the contrary and notwithstanding any agreement of the parties to the contrary, permanent total disability payments shall not be commuted to a lump sum, except in accordance with the following:

(a) Benefits may be commuted to a lump sum to pay only the employee's attorney's fees and litigation expenses and to pay pre-injury obligations in arrears;

(b) The commuted portion of an award shall not exceed the value of one hundred (100) weeks of the employee's benefits;

(c) After the total amount of the commuted lump sum is determined, the amount of the weekly disability benefit shall be recalculated to distribute the total remaining permanent total benefits in equal weekly installments beginning with the date of entry of the order and terminating on the date the employee's disability benefits terminate pursuant to subdivision (4)(A)(i);

(iii) For injuries occurring on or after July 1, 2014, attorneys' fees in contested cases of permanent disability shall be calculated upon the first four hundred fifty (450) weeks of disability only;

(iv) In case an employee who is permanently and totally disabled becomes a resident of a public institution, and provided further, that if no person or persons are wholly dependent upon the employee, then the amounts falling due during the lifetime of the employee shall be paid to the employee or to the employee's guardian or conservator, if adjudicated incompetent, to be spent for the employee's benefit; such payments to cease upon the death of the employee;

(B) When an injury not otherwise specifically provided for in this chapter totally incapacitates the employee from working at an occupation that brings the employee an income, the employee shall be considered totally disabled and for such disability compensation shall be paid as provided in subdivision (4)(A); provided, that the total amount of compensation payable under this subdivision (4)(B) shall not exceed the maximum total benefit, exclusive of medical and hospital benefits;

(C)(i) If an employee is determined, by trial or settlement, to be permanently totally disabled, the employer, insurer or the department, in the event the subsequent injury and vocational recovery fund is involved, may have the employee examined, at the expense of the requesting entity, from time to time, subject to the conditions outlined in this section, and may seek reconsideration of the issue of permanent total disability as provided in this subdivision (4)(C);

(ii) The request for the examination of the employee may not be made until twenty-four (24) months have elapsed following the entry of a final order in which it is determined that the employee is permanently totally disabled. Any request for an examination is subject to considerations of reasonableness in regard to notice prior to examination, place of examination and length of examination;

(iii) A request for an examination may not be made more often than once every twenty-four (24) months. The procedure for this examination shall be as follows:

(a) The requesting entity shall first make informal contact with the employee, either by letter or by telephone, to attempt to schedule an

appointment with a physician for examination at a mutually agreeable time and place. It is the intent of the general assembly that the requesting entity make a good faith effort to reach a mutual agreement for examination, recognizing the inherently intrusive nature of a request for examination;

(b) If, after a reasonable period of time, not to exceed thirty (30) days, mutual agreement is not reached, the requesting entity shall send the employee written notice of demand for examination by certified mail, return receipt requested, on a form provided by the department. The form shall clearly inform the employee of the following: the date, time and place of the examination; the name of the examining physician; the employee's obligations; any pertinent time limitations; the employee's rights; and any consequences of the employee's failure to submit to the examination. The examination shall be scheduled to take place within thirty (30) days of the date on the notice;

(c) After receipt of the notice of demand for examination, the employee shall either submit to the examination at the time and place identified in the notice form, or, within thirty (30) days from the date of the notice, the employee shall schedule an appointment for a different date and time conducted by the same physician, and this examination shall be completed no later than ninety (90) days from the date of the notice;

(d) In the event the employee fails to submit to the examination at the time and place identified in the notice form and fails to schedule, within thirty (30) days from the date of the notice, an alternative examination date, as provided in subdivision (4)(C)(iii)(*c*), then the employee's periodic benefits shall be suspended for a period of thirty (30) days;

(e) In the event the employee schedules an alternative date for the examination as provided in subdivision (4)(C)(iii)(*c*), and fails to submit to the examination within the ninety (90) day period, then the employee's periodic benefits shall be suspended for a period of thirty (30) days beginning at the end of the ninety (90) day period within which the alternatively scheduled examination was to be completed;

(f) If the employee submits to an examination within any period of suspension of benefits, then within fourteen (14) days of the submission, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension of benefits shall be remitted to the employee;

(g) Within ten (10) days of the date on which periodic benefits are suspended pursuant to either subdivision (4)(C)(iii)(*d*) or (4)(C)(iii)(*e*), the entity suspending the periodic benefits shall notify the department, in writing, that periodic benefits have been suspended and the date on which the periodic benefits were suspended and shall provide the department a copy of the original notice of demand for examination sent to the employee; and

(h) After the department receives notice of suspension of benefits pursuant to either subdivision (4)(C)(iii)(*d*) or (4)(C)(iii)(*e*), the department shall contact the employee and for a period of thirty (30) days assist the employee to schedule an examination to be conducted by the

physician named in the notice. After the thirty (30) day assistance period has elapsed, if the employee has not submitted to an examination, the department shall authorize the employer, insurer or department to suspend periodic benefits for a period of thirty (30) days. At the conclusion of each thirty (30) day suspension period, periodic benefits shall be restored. After the restoration of periodic benefits, the department shall, in thirty (30) day cycles, continue to assist the employee to schedule the examination, to be followed by thirty (30) day cycles of suspension of benefits until the examination of the employee is completed. If, at any time during any period of suspension of periodic benefits, the employee submits to an examination, then within fourteen (14) days of notice of the examination having been conducted, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension shall be remitted to the employee;

(iv) Subsequent to an examination as described in this subdivision (4)(C), the employer, insurer or department may request a reconsideration of the issue of whether the employee continues to be permanently totally disabled based on any changes in the employee's circumstances that have occurred since the time of the initial settlement or trial;

(v) Prior to filing any request for reconsideration, the employer, insurer or department shall file a petition for benefit determination and participate in alternative dispute resolution pursuant to § 50-6-236. In the event the parties are unable to reach an agreement through alternative dispute resolution, the workers' compensation mediator shall issue a dispute certification notice and the employer, insurer or department may file a request for a hearing, as provided in § 50-6-239, to determine the issue of reconsideration.

(vi) In the event a reconsideration request is filed pursuant to this section, the only remedy available to the employer, insurer or department is the modification or termination of future periodic disability benefits;

(vii) In the event the employer, insurer or department files a request for reconsideration or cause of action under this subdivision (4)(C) and the court does not terminate the employee's future periodic disability benefits, the employee shall be entitled to an award of reasonable attorney fees, court costs and reasonable and necessary expenses incurred by the employee in responding to the request for reconsideration upon application to and approval by the court. In determining what attorney fees shall be awarded under this subdivision (4)(C), the court shall make specific findings with respect to the following criteria:

(a) The time and labor required, the novelty and difficulty of the questions involved in responding to the request for reconsideration, and the skill requisite to perform the legal service properly;

(b) The fee customarily charged in the locality or by the attorney for similar legal services;

(c) The amount involved and the results obtained;

(d) The time limitations imposed by the client or by the circumstances; and

(e) The experience, reputation, and ability of the lawyer or lawyers performing the services;

(D)(i) The employer, insurer or department, in the event the subsequent injury and vocational recovery fund is involved, shall notify the department, on a form to be developed by the department, of the entry of a final order adjudging an employee to be permanently totally disabled. The form shall be submitted to the department within thirty (30) days of the entry of the order;

(ii) On an annual basis, the department shall require an employee who is receiving permanent total disability benefits to certify on forms provided by the department that the employee continues to be permanently totally disabled, that the employee is not currently working at an occupation that brings the employee an income and has not been gainfully employed since the date permanent total disability benefits were awarded, by trial or settlement;

(iii) The department shall send the certification form to the employee by certified mail, return receipt requested and shall include a self-addressed stamped envelope for the return of the completed form; and

(iv) In each annual cycle, if the employee fails to return the form to the department within thirty (30) days of the date of receipt of the form, as evidenced by the date on the return receipt notice, then the department shall notify the entity who gave notice to the department that the employee was permanently totally disabled pursuant to subdivision (4)(D)(i) that four (4) weeks of periodic disability benefits shall be withheld from the employee as a penalty for the failure to return the form to the department. If the completed form is returned to the department within one hundred twenty (120) days of the date on the return receipt notice, the department shall notify the appropriate entity and then, within fourteen (14) days of receipt of the notice from the department, that entity shall refund to the employee the entire four (4) weeks of periodic disability benefits previously withheld from the employee;

(5) **Deductions in Case of Death.** In case a worker sustains an injury due to an accident arising primarily out of and in the course and scope of the worker's employment, and during the period of disability caused by the injury death results proximately from the injury, all payments previously made as compensation for the injury shall be deducted from the compensation, if any, due on account of death; and

(6) For social security purposes only, as permitted by federal law or regulation, in an award of compensation as a lump sum or a partial lump sum under this chapter for permanent partial or permanent total disability, the court may make a finding of fact that the payment represents a payment to the individual to be distributed over the individual's lifetime based upon life expectancy as determined from mortality tables maintained by the United States Centers for Disease Control and Prevention.

50-6-411. Misclassification of employees by construction service providers.

(a)(1) It is a violation of this section if at any time a construction services provider, as defined in § 50-6-901, misclassifies employees to avoid proper classification for premium calculations by concealing any information pertinent to the computation and application of an experience rating modification

factor or by materially understating or concealing:

(A) The amount of the construction services provider's payroll;

(B) The number of the construction services provider's employees; or

(C) Any of the construction services provider's employee's duties.

(2) A construction services provider who violates subdivision (a)(1) shall be subject to a penalty issued by the administrator or administrator's designee of up to the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium for such construction services provider based on the appropriate assigned risk plan advisory prospective loss cost and multiplier minus the premium dollars paid on the policy that was the object of the understatement or concealment.

(b) This section shall have no effect upon a construction services provider's or carrier's duty to provide benefits under this chapter or upon any of the construction services provider's or carrier's rights and defenses under this chapter, including, but not limited to, § 50-6-108.

(c) In addition to the penalties provided for in subdivision (a)(2), the department shall refer cases involving business operations that are in violation of this section to the Tennessee bureau of investigation or the appropriate district attorney general for any action deemed necessary under any applicable criminal law.

(d)(1) As used in this subsection (d), "successor in interest" means a successor in ownership of any part of a business or enterprise that is carried on and controlled in substantially the same manner as the penalized construction services provider.

(2) A penalty issued under this section must follow any owner of a business, or member of an LLC, that is closed, liquidated, or dissolved, when that owner or member owns or operates any part of a subsequent business that is carried on and controlled in substantially the same manner as the penalized construction services provider.

(3) A successor in interest to a construction service provider is liable for any penalty assessed under this section against that construction services provider.

(4) A penalized owner, or member of an LLC, of a construction services provider, or a successor in interest to the construction services provider, may appeal a penalty assessment by requesting a contested case hearing pursuant to § 50-6-412(e).

(5) The administrator or the administrator's designee may waive a penalty against a penalized owner, or member of an LLC, of a construction services provider, or successor in interest to a construction services provider, for good cause.

(e) The funds collected by the administrator or the administrator's designee for penalties assessed pursuant to this section shall be deposited in the employee misclassification education and enforcement fund established by § 50-6-913 to be administered by the administrator.

50-6-411. Misclassification of employees by construction service providers. [Applicable to injuries occurring prior to July 1, 2014.]

(a)(1) It is a violation of this section if at any time a construction services provider, as defined in § 50-6-901, misclassifies employees to avoid proper

classification for premium calculations by concealing any information pertinent to the computation and application of an experience rating modification factor or by materially understating or concealing:

(A) The amount of the construction services provider's payroll;

(B) The number of the construction services provider's employees; or

(C) Any of the construction services provider's employee's duties.

(2) A construction services provider who violates subdivision (a)(1) shall be subject to a penalty issued by the commissioner or commissioner's designee of up to the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium for such construction services provider based on the appropriate assigned risk plan advisory prospective loss cost and multiplier minus the premium dollars paid on the policy that was the object of the understatement or concealment.

(b) This section shall have no effect upon a construction services provider's or carrier's duty to provide benefits under this chapter or upon any of the construction services provider's or carrier's rights and defenses under this chapter, including, but not limited to, § 50-6-108.

(c) In addition to the penalties provided for in subdivision (a)(2), the department shall refer cases involving business operations that are in violation of this section to the Tennessee bureau of investigation or the appropriate district attorney general for any action deemed necessary under any applicable criminal law.

(d) An individual or entity that is not a successor-in-interest or a principal of a construction services provider who is in violation of this section shall not be liable for the monetary penalties in this section.

(e) The funds collected by the commissioner of labor and workforce development or the commissioner's designee for penalties assessed pursuant to subdivision (a)(2) shall be deposited in the employee misclassification education and enforcement fund established by § 50-6-913 to be administered by the commissioner of labor and workforce development.

50-6-412. Penalties for noncompliance with insurance requirements.

(a) The administrator of the bureau of workers' compensation or the administrator's designee has the authority to issue a subpoena to require an employer doing business in the state to produce any and all books, documents or other tangible things that may be relevant to or reasonably calculated to lead to the discovery of relevant information necessary to determine whether an employer is subject to this chapter, or has secured payment of compensation pursuant to this chapter, and to determine the amount of any monetary penalty that is required to be assessed against an employer for failure to secure payment of compensation pursuant to this chapter.

(b)(1) All monetary penalties assessed pursuant to this section that are based on the average yearly workers' compensation premium shall be calculated by utilizing the appropriate assigned risk plan advisory prospective loss cost and multiplier for the employer as of the date of determination that the employer is subject to this chapter, and has not secured payment of compensation pursuant to this chapter.

(2) If the administrator or administrator's designee determines the period of noncompliance with this chapter, is less than one (1) year, any assessed

monetary penalty shall be prorated; however, the monetary penalty shall not be less than an amount equal to one (1) month's premium of the average yearly workers' compensation premium for the employer based on the appropriate assigned risk plan advisory prospective loss cost and multiplier.

(3) If any monetary penalty assessed against an employer is held in abeyance pursuant to this section, the period of abeyance shall be two (2) years. Any abated penalty becomes void upon the expiration of the two-year period; provided, that the employer remained subject to this chapter, during the two-year period and continuously secured payment of compensation as required by law. Any abated penalty becomes voidable, if within the two-year period, the employer provides notice to the administrator that the employer is no longer subject to this chapter and upon concurrence of the administrator that the employer is no longer subject to this chapter, the penalty shall become void. Any abated penalty shall become due and payable immediately if, within the two-year period, the employer continues to be subject to this chapter and fails to secure payment of compensation as required by law.

(4) The administrator shall advise an employer of the amount of any assessed monetary penalty in writing and shall include the date on which the monetary penalty shall be due and payable.

(c)(1) When the records of the bureau of workers' compensation indicate, or when the bureau's investigation of an employer indicates, that an employer is subject to this chapter, and has failed to secure payment of compensation as required by this chapter, the bureau shall so notify the employer by certified letter, return receipt requested.

(2) The bureau shall require the employer to provide, within fifteen (15) calendar days of the receipt of the certified letter, either proof that the employer had secured payment of compensation as required by this chapter or a verifiable sworn affidavit, with supporting documentation, that the employer is exempt from this chapter.

(3) The certified letter shall also advise the employer of the monetary penalties that may be assessed against the employer if it is determined by the administrator or the administrator's designee that the employer has failed to secure payment of compensation as required by this chapter and shall advise the employer of the criminal penalties to which the employer may be subject for the failure.

(d)(1) If the employer responds to the certified letter within fifteen (15) calendar days of its receipt and the administrator or the administrator's designee determines that the employer has secured payment of compensation as required by this chapter, or that the employer is not subject to this chapter, no monetary penalty shall be assessed.

(2) If the employer responds to the certified letter within fifteen (15) calendar days of its receipt and the administrator or the administrator's designee determines that the employer is subject to this chapter and that the employer has secured the payment of compensation since the date of receipt of the certified letter, the administrator or the administrator's designee shall issue a decision assessing a monetary penalty to the employer equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium.

(e)(1) If the employer fails to respond to the certified letter within fifteen (15) calendar days of its receipt or the employer responds to the certified

letter but does not provide a verifiable sworn affidavit of exemption, the administrator or the administrator's designee shall issue a decision assessing two (2) penalties. The administrator or administrator's designee shall send the decision to the employer by certified mail, return receipt requested, to the employer's last known address, according to the bureau's records.

(A) The first monetary penalty shall be equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium.

(B) The second monetary penalty shall be equal to the average yearly workers' compensation premium for such employer.

(2) The administrator's or administrator's designee's decision shall notify the employer of all monetary penalties that have been assessed against the employer and the criminal penalties to which the employer may be subject.

(3) The administrator's or administrator's designee's decision shall advise the employer that it may request a contested case hearing to show cause why it should not have been assessed penalties for failure to comply with the workers' compensation law or to challenge the amount of the penalties assessed. Such a request must be made to the bureau in writing within fifteen (15) calendar days of receipt of the administrator's or administrator's designee's decision assessing monetary penalties. If such request is not timely made, the decision becomes final.

(4) The employer has the burden of proof at the contested case hearing and shall produce documentary evidence that the penalties should be reduced, that the employer is not subject to this chapter, or that the employer was in compliance with this chapter.

(5) The contested case hearing shall be scheduled to be heard in a timely manner, not to exceed forty-five (45) calendar days from the date of the employer's timely written request for a contested case hearing pursuant to subdivision (e)(3).

(f)(1) If the administrator or the administrator's designee determines at the contested case hearing that the employer is not subject to this chapter, or that the employer had secured and continues to secure payment of compensation as required by this chapter, all monetary penalties shall be void.

(2) If the administrator or the administrator's designee determines at the contested case hearing that the employer is subject to this chapter and that the employer has come into compliance with this chapter by securing payment of compensation prior to the date of the contested case hearing, the first monetary penalty equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium shall be due; however, the second monetary penalty equal to the average yearly workers' compensation premium shall be held in abeyance.

(3) If the administrator or the administrator's designee determines at the contested case hearing that the employer is subject to this chapter and that the employer has failed to secure payment of compensation as required by this chapter, the employer shall be ordered to procure workers' compensation insurance coverage and to provide the bureau with proof of coverage within

five (5) days of the issuance of the order, excluding Saturdays, Sundays and holidays. If the employer obtains workers' compensation insurance coverage and provides the bureau with proof of coverage as ordered, the first monetary penalty equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium shall be due; however, the second monetary penalty equal to the average yearly workers' compensation premium shall be held in abeyance.

(4) If the employer fails to obtain workers' compensation insurance coverage as ordered by the administrator or administrator's designee within the required time period, all monetary penalties, totaling two and one-half (2 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of two thousand dollars ($2,000) or two and one-half (2 ½) times the average yearly workers' compensation premium, shall be immediately due and payable.

(g) The administrator shall notify the secretary of state:

(1) When any employer engaged in the construction industry, as defined in § 50-6-901, fails to secure payment of compensation, as required by this chapter; and

(2) When any employer engaged in the construction industry, as defined in § 50-6-901, who has failed to secure payment of compensation, as required by this chapter, has secured payment of such compensation.

(h)(1) In the event an employer engaged in the construction industry, as defined in § 50-6-901, fails to comply with the requirements of this chapter, by failing to secure payment two (2) or more times within a five-year period, then the administrator shall issue a monetary penalty against the employer that is the greater of three thousand dollars ($3,000) or three (3) times the average yearly workers' compensation premium for each second or subsequent violation.

(2)(A) In the event an employer engaged in the construction industry, as defined in § 50-6-901, fails to comply with the requirements of this chapter, by failing to secure payment two (2) or more times within a five-year period, such employer shall be permanently prohibited from obtaining an exemption pursuant to part 9 of this chapter and the administrator shall notify the secretary of state of such prohibition.

(B) For purposes of subdivision (h)(2)(A), "such employer" includes any construction services provider, as defined by § 50-6-901, who applies for or has ever received a workers' compensation exemption pursuant to part 9 of this chapter using the same federal employer identification number as the employer who fails to comply with the requirements of this chapter.

(i)(1) The administrator has the authority to seek an injunction in the chancery court of Davidson County to prohibit an employer from operating its business in any way until the employer has complied with an order by the administrator or the administrator's designee to obtain workers' compensation insurance coverage.

(2) In the event an employer fails to comply with the requirements of this chapter, by failing to secure payment of compensation on a second or subsequent occasion, the administrator shall have the authority to seek an

injunction in the chancery court of Davidson County to prohibit the employer from operating its business in any way until the employer provides proof that it has complied with this chapter by securing payment of compensation.

(j) The employer shall have the right to appeal, pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5, any decision made by or order issued by the administrator or the administrator's designee pursuant to this section.

(k)(1) A successor in interest, as defined in § 50-6-411(d)(1), is liable for any penalty issued under this section against a construction services provider.

(2) A person or entity designated as a successor in interest may appeal a penalty assessment by requesting a contested case hearing pursuant to subsection (e).

(3) The administrator or the administrator's designee may waive a penalty against a successor in interest for good cause.

50-6-801. Creation — Legislative intent — Uses of fund.

(a) There is created the uninsured employers fund as an account in the general fund, which shall be invested pursuant to § 9-4-603. Moneys from the fund may be expended to fund activities authorized by this part. Any revenues deposited in this fund shall remain in the fund until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any appropriation for the fund shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(b) The uninsured employers fund may receive revenues that shall include all penalties assessed and collected from employers who fail to provide workers' compensation coverage or who fail to qualify as self-insurers pursuant to this chapter, and any other amounts that may be appropriated. In addition, when deemed necessary in the discretion of the administrator and when the balance remaining in the uninsured employers fund is less than the amount of funds distributed by the bureau to provide benefits to injured workers in the previous fiscal year, the administrator may also withdraw up to twenty-five percent (25%) of the balance of funds remaining after the costs and expenditures provided by § 50-6-913(b) have been satisfied, from the employee misclassification education and enforcement fund to provide benefits under this part.

(c) The uninsured employers fund shall be used for payment of the costs incurred by the bureau of workers' compensation to administer the assessment of and collection of penalties provided in § 50-6-412 and the cost of administering this part 8 including, but not limited to, lien fees or fees of third party administrators.

(d) The bureau may use any revenues remaining in the uninsured employers fund that are not used for the purposes provided in subsection (c) to provide temporary disability and medical benefits to any eligible employee who suffered an injury arising primarily within the course and scope of the employee's employment with an employer who failed to secure the payment of compensation pursuant to this chapter at the time the eligible employee suffered the injury. An employee shall be an eligible employee within the meaning provided by this section if:

(1) The employee was employed by an employer who failed to secure payment of compensation pursuant to this chapter;

(2) The employee suffered an injury on or after July 1, 2015, primarily within the course and scope of employment, at a time when the employer had failed to secure the payment of compensation;

(3) The employee was a Tennessee resident on the date of injury;

(4) The employee provided notice to the bureau of the injury and of the failure of the employer to secure the payment of compensation within a reasonable period of time, but in no event more than one hundred eighty (180) days, after the date of the injury; and

(5) Except as provided in § 50-6-802(d) and (e), the employee secured a judgment for workers' compensation benefits against the employer for the injury.

50-6-802. Request for benefits from fund.

(a) An eligible employee may request that the bureau provide the employee temporary disability or medical benefits, pursuant to § 50-6-801(d), by submitting a request for benefits from the uninsured employers fund to the bureau no more than sixty (60) days after conclusion of the claim, including all appeals. The request shall be made on a form prescribed by the bureau, and shall be submitted to the bureau via certified mail. The eligible employee shall include a copy of the judgment with the request. Any request for benefits that does not meet the requirements of this subsection (a) shall not be considered.

(b) For claims with a date of injury that is on or after July 1, 2015, the bureau may, upon receipt of a request for benefits pursuant to subsection (a) from an eligible employee, provide the employee workers' compensation benefits for temporary disability and medical benefits only. The bureau shall promulgate rules, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, setting forth the circumstances under which benefits may be paid pursuant to this part.

(c) If the bureau pays workers' compensation benefits to the injured employee, the workers' compensation benefits shall be paid to the employee from the uninsured employers fund and the amount paid to, or on behalf of, any injured employee, pursuant to this part, shall not exceed forty thousand dollars ($40,000). Of the forty thousand dollars ($40,000), no more than twenty thousand dollars ($20,000) shall be payable for medical benefits and no more than twenty thousand dollars ($20,000) shall be payable for temporary disability benefits. However, if less than twenty thousand dollars ($20,000) has been paid to the employee for temporary disability or medical benefits and the employee has secured a judgment for temporary disability or medical benefits in an amount greater than twenty thousand dollars ($20,000), the administrator may pay the remaining funds to the employee for temporary disability or medical benefits. The administrator shall not pay benefits pursuant to this part to, or on behalf of, any employee for more than one workplace injury.

(d)(1) In order to establish medical causation, the administrator shall have authority to provide medical benefits to an employee who meets the requirements of § 50-6-801(d)(1)-(4) for the payment of the cost associated with the employee's visit with a physician to perform an evaluation and provide an opinion on medical causation. The employer shall be required to reimburse the bureau for the payment of benefits pursuant to this section even when the employee's injury is determined not to be compensable under this chapter.

(2) When medical benefits have been provided pursuant to subdivision (d)(1), the amount of payment shall be deducted from the total amount of benefits that may be provided under subsection (c) in the event that those benefits are provided. However, the provision of medical benefits pursuant to this subsection (d) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under this chapter.

(e)(1) If medical causation is established and a workers' compensation judge determines that an employee, who meets the requirements of § 50-6-801(d)(1)-(4), is entitled to temporary disability or medical benefits, following an expedited hearing as provided in § 50-6-239(d), the administrator has the discretion to begin paying temporary disability or medical benefits.

(2) If the administrator makes any payments of temporary disability or medical benefits pursuant to this subsection (e) and the employee fails to prosecute the claim, the bureau has authority to seek recovery of the payments from the employee.

(3) The provision of medical benefits pursuant to this subsection (e) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under this chapter.

(f) [Deleted by 2020 amendment.]

50-7-207. "Employment" and related definitions.

(a) **Definition of "Employment."** For purposes of this chapter and subject to the special rules contained in subsection (e), and the definitions contained in subsection (f), "employment" means service that meets all of the following conditions:

(1) It is within any category of "included service" as listed in subsection (b);

(2) It is not within any category of "excluded service" as listed in subsection (c); and

(3) It is within any category of "Tennessee service" as listed in subsection (d).

(b) **"Included Service."** For purposes of this section, "included service" means any of the following:

(1) Service performed prior to January 1, 1978, that was employment as defined in this section prior to January 1, 1978;

(2) Subject to the other provisions of this section, service performed after December 31, 1977, including service in interstate commerce, by:

(A) Any officer of a corporation;

(B) Any individual who performs services for an employer for wages if the services are performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(i) **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(ii) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by

requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(iii) **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(iv) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(v) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(vi) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are

performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(xii) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(xiv) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(xvii) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) **Making service available to general public.** The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) **Right to terminate.** If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship;

(C) Any individual other than an individual described in subdivision (b)(2)(A) or (b)(2)(B) who performs services for remuneration for any person:

(i) In either of the following capacities:

(a) As an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry-cleaning service, for the driver's principal; or

(b) As a traveling or city salesperson, other than as an agent driver or commission driver, engaged on a full-time basis in the solicitation on behalf of, and the transmission to, the salesperson's principal, except for side-line sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations; and

(ii) In the presence of all of the following conditions:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by the individual;

(b) The individual does not have a substantial investment in facilities used in connection with the performance of services other than in facilities for transportation; and

(c) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed;

(3) Except as provided in subdivision (c)(5), service performed by an individual:

(A) After December 31, 1971 and prior to January 1, 1978, in the employ of this state or any of its instrumentalities, or in the employ of this state and one (1) or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; provided, that the service is excluded from "employment" as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(7), and does not constitute "excluded employment" under subdivision (c)(5); and

(B) After December 31, 1977, in the employ of this state or any of its instrumentalities or any political subdivision of the state or any of its instrumentalities or any instrumentality of more than one (1) of the

foregoing or any instrumentality of any of the foregoing and one (1) or more other states or political subdivisions; provided, that the service is excluded from "employment" as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(7), and does not constitute "excluded employment" under subdivision (c)(5);

(4) Except as provided in subdivision (c)(5), service performed by an individual after December 31, 1977, in the employ of a religious, charitable, educational or other organization, but only if both of the following conditions are met:

(A) The service is excluded from "employment" as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(8); and

(B) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not the weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same point in time;

(5) Service performed after December 31, 1971, by an officer or crew member of an American vessel or American aircraft or in connection with the American vessel or American aircraft; provided, that it meets the conditions of subdivision (d)(5);

(6) Notwithstanding subsection (c), service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or that as a condition for full credit against the tax imposed by the federal Unemployment Tax Act, compiled in 26 U.S.C. § 3301 et seq., is required to be covered by this chapter;

(7) Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (f)(1); provided, that:

(A) The service is performed for a person who either:

(i) During any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor, not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in subdivision (b)(7)(B); or

(ii) For some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same point in time, not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in subdivision (b)(7)(B);

(B) For purposes of this section, any individual who is a crew member furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of the crew leader, if both of the following conditions are met:

(i) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or cropdusting equipment or any other mechanized equipment, that is provided by the crew leader; and

(ii) The individual is not an employee of the other person within the meaning of subdivision (a)(2);

(C) For the purposes of this subdivision (b)(7), in the case of any individual who is furnished by a crew leader to perform service in

agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (b)(7)(B), the following shall apply:

(i) The other person and not the crew leader shall be treated as the employer of the individual; and

(ii) The other person shall be treated as having paid cash remuneration to the individual in any amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the person's own behalf or on behalf of the other person, for the service in agricultural labor performed for the other person;

(8) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or college sorority and performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in any calendar quarter, to an individual or individuals employed in the domestic service in the current calendar year or the preceding calendar year;

(9) During the effective period of the election, service covered by an election pursuant to § 50-7-405 and service covered by an election duly approved by the administrator in accordance with an arrangement pursuant to § 50-7-405; or

(10) The entire service of an individual in the case of service that is not covered under this section and performed entirely without this state, with respect to no part of which contributions are required and paid under any unemployment compensation law of any other state or of the federal government; provided, that the individual performing the services is a resident of this state and the administrator approves the election of the employing unit for which the services are performed.

(c) **"Excluded Service."** For purposes of this section, "excluded service" means any of the following, unless the employing unit for which the service is performed is liable for a federal tax on the remuneration paid for the service against which credit may be taken for premiums paid under this chapter, or unless the employing unit has elected that the service shall be deemed to constitute employment subject to this chapter pursuant to § 50-7-405, in which cases the service shall be "included service" as provided in subsection (b):

(1) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that after 1961, to the extent that the congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state employment security law, this chapter shall apply to those instrumentalities, and to service performed for the instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and service; provided, that, if this state is not certified for any year by the secretary of labor under the federal Unemployment Tax Act, 26 U.S.C. § 3304(c), the payments required of the instrumentalities with respect of that year shall be refunded by the commissioner for the fund in the same manner and within the same period as is provided in § 50-7-404(f) with respect to premiums erroneously collected;

(2) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment

Insurance Act of Congress, 52 Stat. 1094, compiled in 45 U.S.C. § 351 et seq., and services with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an act of congress; provided, that the commissioner is authorized and directed to enter into agreements with the proper agencies under the act of congress, which agreements shall become effective in the manner provided in § 50-7-603, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights for unemployment compensation under the act of congress, or who have, after acquiring potential rights to unemployment compensation under the act of congress, acquired rights to benefits under this chapter;

(3) Except as provided in subsection (b), service performed by an individual in agricultural labor as defined in subdivision (f)(1);

(4) Service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under eighteen (18) years of age in the employ of the child's father or mother;

(5) Notwithstanding subdivisions (b)(3) and (4), services performed:

(A) In the employ of a church, convention or association of churches;

(B) In the employ of an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church, convention or association of churches;

(C) By a duly ordained, commissioned or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the religious order;

(D) After December 31, 1977, in the employ of a governmental entity referred to in subdivision (b)(3) if the service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(iii) As a member of the state national guard or air national guard;

(iv) As an employee serving on a temporary basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or

(v) In a position that, under or pursuant to the laws of this state, is designated as either:

(a) A major nontenured policymaker or advisory position; or

(b) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;

(E) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving the rehabilitation or remunerative work;

(F) After December 31, 1977, in a custodial or penal institution by an inmate of the institution and, after June 30, 1999, by an inmate committed to a custodial or penal institution for any employer; or

(G) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision of a state, by an individual receiving the

work-relief or work-training, unless otherwise required by the agency or by law governing the agency assisting or financing in whole or in part the unemployment work-relief or work-training program as a condition to the assistance or financing;

(6) Except to the extent set forth in subdivisions (b)(4) and (6), service performed in the employ of the corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission;

(8) Service performed in the employ of a school, college or university, if the service is performed:

(A) By a student who is enrolled and is regularly attending classes at the school, college or university; or

(B) By the spouse of the student, if the spouse is advised, at the time the spouse commences to perform the service, both that:

(i) The employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college or university; and

(ii) The employment will not be covered by any program of unemployment insurance;

(9) Service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, that is taken for credit and that combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this subdivision (c)(9) does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(10) Service performed in the employ of a hospital, if the service is performed by a patient of the hospital, as defined in subdivision (f)(7);

(11) Service performed by a qualified real estate agent if:

(A) The individual is a licensed real estate agent;

(B) Substantially all of the remuneration for the services performed as a real estate agent is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(C) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax (FUTA) purposes;

(12) Service performed by a direct seller, including an individual engaged in the trade or business of the delivery or distribution of newspapers or shopping news, if:

(A) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a:

(i) Buy-sell basis;

(ii) Deposit-commission basis; or

(iii) Any similar basis that the United States secretary of treasury prescribes by regulations, for resale by the buyer or any other individual, in the home or otherwise than in a permanent retail establishment; or

(B) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to a consumer in the home or somewhere other than in a permanent retail establishment; and

(i) Substantially all of the remuneration for the services performed as a direct seller is directly related to sales or output, including the performance of services, rather than to the number of hours worked; and

(ii) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax (FUTA) purposes;

(13) Service performed by a full-time student in the employ of an organized camp, if:

(A) The camp did not operate for more than seven (7) months in the calendar year and did not operate for more than seven (7) months in the preceding calendar year, or had average gross receipts for any six (6) months in the preceding calendar year that were not more than thirty-three and one third percent (33 ⅓%) of its average gross receipts for the other six (6) months in the preceding calendar year;

(B) The full-time student performed services in the employ of the camp for less than thirteen (13) calendar weeks in the calendar year; and

(C) For purposes of this subdivision (c)(13), an individual shall be treated as a full-time student for any period during which the individual is enrolled as a full-time student at an educational institution, or that is between academic years or terms if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term, and there is reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term;

(14) Service performed by an individual on a boat, or boats in the case of a fishing operation involving more than one (1) boat, engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which:

(A) The individual does not receive any cash remuneration, other than as provided in subdivision (c)(14)(B);

(B) The individual receives a share of the boat's or boats' catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch;

(C) The amount of the individual's share depends on the amount of the boat's or boats' catch of fish or other forms of aquatic animal life, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one (1) boat, is normally made up of fewer than ten (10) individuals;

(15) Service performed by an individual as a product demonstrator pursuant to a written contract between the individual and a person whose

principal business is providing demonstrators to third parties for those purposes, and the contract provides that the individual will not be treated as an employee with respect to the services;

(16) The service performed on or after January 1, 1995, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to §§ 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act, codified in 8 U.S.C. §§ 1101(a)(15)(H) and 1184, respectively;

(17) After June 30, 1999, service performed by an election official or an election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars ($1,000); and

(18)(A) Notwithstanding any provision of this chapter or any other law to the contrary, companion-sitters who receive referrals under registry or referral arrangements substantially similar to those addressed within the IRS determination shall not be classified as employees of the person, corporation or business entity pursuant to this chapter, unless the person, corporation or business entity and the department mutually agree to the reclassification of the companion sitters as employees of the person, corporation or business entity in order to absolve the elderly, sick or disabled clients or the parents of the children from liability for payment of any premiums, fees or other costs that may be imposed pursuant to the Tennessee Employment Security Law, if:

(i) A person, corporation or business entity maintains an employment registry or referral service exclusively for companion sitters seeking employment opportunities for providing personal attendant, companionship, household care, ancillary health care or related services to children, the elderly, or sick or disabled clients;

(ii) The companion sitters do not provide personal attendant, companionship, household care, ancillary health care or related services for hire to nonprofit organizations, Indian tribes or state or local governments; and

(iii) Pursuant to the federal Insurance Contributions Act, the federal Unemployment Tax Act, or the collection of income tax at source on wages, chapters 21, 23 and 24, respectively, Subtitle C, Internal Revenue Code, compiled in 26 U.S.C. § 3101 et seq., 26 U.S.C. § 3301 et seq., and 26 U.S.C. § 3401 et seq., respectively, the Internal Revenue Service issues a determination that a companion-sitter is not an employee of the person, corporation or business entity under the typical registry or referral arrangements of the person, corporation or business entity;

(B) Subdivision (c)(18)(A) shall not be construed to require forgiveness or refund of any premiums, fees or other related costs duly imposed prior to July 1, 2004.

(d) **"Tennessee Service."** For purposes of this section, "Tennessee service" means any of the following:

(1) Any individual's entire service, performed within or both within and without this state, if the service is localized in this state. Service shall be deemed to be localized within a state if either:

(A) The service is performed entirely within the state; or

(B) The service is performed both within and without the state but the service performed without the state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions;

(2) An individual's entire service, performed within and without this state, if the service is not localized in any state but some of the service is performed in this state and:

(A) The individual's base of operations is in this state; or

(B) If there is no base of operations, then the place from which the service is directed or controlled is in this state; or

(C) The individual's base of operations or place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(3) Service wherever performed within the United States, or Canada, if both:

(A) The service is not covered under the unemployment compensation law of any other state or Canada; and

(B) The place from which the service is directed or controlled is in this state;

(4) Service that is performed after December 31, 1971, except service performed in Canada, by an individual who is a citizen of the United States and who is in the employ of an American employer, other than service that is deemed to be "Tennessee employment" under subdivisions (d)(1) and (2) or to be "employment" under the parallel provisions of another state's law, if:

(A) The employer's principal place of business in the United States is located in this state; or

(B) The employer has no place of business in the United States, but:

(i) The employer is an individual who is a resident of this state;

(ii) The employer is a corporation that is organized under the laws of this state; or

(iii) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of subdivisions (d)(4)(A) and (B) are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on the service under the laws of this state;

(5) Specifically in the case of included service described in subdivision (b)(5), service where the operating office from which the operations of the American vessel, operating on navigable waters within the United States, or the operations of the American aircraft within the United States, or the operations of both the vessel and the aircraft within and without the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state; or

(6) Specifically in the case of included service described in subdivision (b)(10), service when the individual performing the service is a resident of this state.

(e) **Special Rules.** The following rules shall govern for purposes of this section:

(1) Services performed by an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under

contract to a common carrier conducting an interstate business while engaged in interstate commerce are deemed to be an excluded service for the purposes of this section, regardless of whether the common law relationship of master and servant exists. However, this subdivision (e)(1) does not apply to services performed under subdivision (b)(3) or (b)(4); and

(2) It is the legislative intent that no elected official is eligible for benefits based upon service as an elected official.

(f) **Section Definitions.** The following words and terms have the following respective meanings for the purposes of this section, unless the context otherwise requires:

(1) "Agricultural labor" means remunerated service performed after December 31, 1971:

(A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(B) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm;

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in § 15(g) of the Agricultural Marketing Act, codified in 12 U.S.C. § 1141j, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, and used exclusively for supplying and storing water for farming purposes;

(D) In the employ of either:

(i) The operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half (½) of the commodity with respect to which the service is performed; or

(ii) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in subdivision (f)(1)(D)(i), but only if the operators produced more than one half (½) of the commodity with respect to which the service is performed; provided, that this subdivision (f)(1)(D) shall not be deemed to include service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) On a farm operated for profit if the service is not in the course of the employer's trade or business or is not domestic service in a private home of the employer;

(2) "American aircraft" means an aircraft registered under the laws of the United States;

(3) "American employer" means a person who is:

(A) An individual who is a resident of the United States;

(B) A partnership, if two thirds (⅔) or more of the partners are residents of the United States;

(C) A trust, if all of the trustees are residents of the United States; or

(D) A corporation organized under the laws of the United States or of any state;

(4) "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel that is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for one (1) or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state;

(5) "Crew leader" means an individual who:

(A) Furnishes individuals to perform service in agricultural labor for any other person;

(B) Pays, either on the individual's own behalf or on behalf of the other person, for the service in agricultural labor performed by them; and

(C) Has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person;

(6) "Hospital" means an institution that has been licensed, certified or approved by the hospital licensing board of the department of health as a hospital; and

(7) "Institution of higher education" means:

(A) Any college or university in this state; or

(B) An educational institution that meets all of the following conditions:

(i) It admits as regular students only individuals having a certificate of graduation from high school, or the recognized equivalent of such a certificate;

(ii) It is legally authorized in this state to provide a program of education beyond high school;

(iii) It provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) It is a public or other nonprofit institution.

(g) **Chapter Definition.** Unless the context otherwise requires, "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

50-7-302. Benefit eligibility conditions.

(a) **Personal Eligibility Conditions.** An unemployed claimant shall be eligible to receive benefits with respect to any week only if the administrator finds that all of the following conditions are met:

(1) The claimant has made a claim for benefits with respect to the week in accordance with rules or regulations the commissioner prescribes;

(2) The claimant has furnished to the division of employment security the claimant's social security account number, or numbers, if the claimant has

more than one (1) social security account number;

(3) The claimant has registered for work, and thereafter continued to report, at an employment office as prescribed by the administrator, except that the administrator may waive or alter either or both of the requirements of this subdivision (a)(3) as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the administrator finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of this chapter; provided, that no prescription, waiver or alteration shall conflict with § 50-7-301(a);

(4) The claimant is able to work, available for work, and making a reasonable effort to secure work. "Making a reasonable effort to secure work" means the claimant shall provide detailed information regarding contact with at least three (3) employers per week or shall access services at a career center created by the department. The administrator shall verify whether claimants are complying with the requirement of contacting at least three (3) employers per week or accessing services at a career center. The administrator shall disqualify any claimant receiving benefits who the administrator finds has provided false work search information. In determining whether the claimant is making a reasonable effort to secure work, the administrator shall consider the customary methods of obtaining work in the claimant's usual occupation or occupation for which the claimant is reasonably qualified, the current condition of the labor market, and any attachment the claimant may have to a regular job;

(A) No claimant shall be considered ineligible in any week of unemployment for failure to comply with this subsection (a) if the failure is due to an illness or disability that occurred after the claimant has registered for work, and no work that would have been considered suitable at the time of the claimant's initial registration has been offered after the beginning of the illness or disability. The administrator may, however, in the administrator's discretion, require the claimant to obtain and submit a certificate by a duly licensed physician as to the illness or disability with respect to each week that the illness or disability exists;

(B) No otherwise eligible claimant shall be denied benefits for any week because the claimant is in training with the approval of the administrator, nor shall the claimant be denied benefits with respect to any week in which the claimant is in training with the approval of the administrator by reason of the application of this subsection (a) relating to availability for work, or of § 50-7-303(a)(3) relating to failure to apply for, or refusal to accept, suitable work;

(C) The unemployment of a claimant for any week or any portion of a week, caused by a plant, departmental or other type of shutdown for vacation purposes shall not be the basis for a denial of benefits for the week, or portion of a week, if the claimant has not or will not receive any vacation pay from the claimant's employer for the period, when so found by the administrator;

(D) No otherwise eligible claimant shall be denied benefits by reason of the application of this subsection (a) who subsequent to the claimant's enrollment in and while attending a regularly established school, college or university, has been regularly employed and becomes unemployed and makes the claimant available for all suitable work, as determined by the administrator, to the same extent that the claimant was previously

employed while continuing to attend and be enrolled in the regularly established school, college or university, but if the claimant is offered the same job that the claimant previously held immediately prior to entering the school and refuses the job, then the claimant shall become ineligible for the benefits provided by this chapter if the job meets the standards set forth in § 50-7-303(a)(3)(A) and (B) as required by applicable federal law;

(E) No provision of this subsection (a) or any other provision of law shall be construed to deny unemployment benefits to any claimant who is a veteran enrolled in school under the Veterans' Educational Assistance Program, commonly known as the "G.I. Bill", compiled in 38 U.S.C. § 1650 et seq., solely because of the claimant's enrollment and attendance in school, if the claimant is otherwise eligible for the benefits, except that if the claimant is offered the same job that the claimant previously held immediately prior to entering the school and refuses the job, then the claimant shall become ineligible for benefits as provided by § 50-7-303(a)(3) if the job meets the standards set forth in § 50-7-303(a)(3)(A) and (B) as required by applicable federal law; and

(F) A claimant shall be considered ineligible for benefits if the claimant is incarcerated four (4) or more days in any week for which unemployment benefits are being claimed;

(5)(A) The claimant has been unemployed for a waiting period of one (1) week. For the purpose of this subsection (a), one (1) week of part total or partial unemployment or other forms of short time work shall be deemed one (1) week of unemployment. No week shall be counted as a week of unemployment for the purposes of this subsection (a), unless:

(i) It occurs within the benefit year that includes the week with respect to which the claimant claims payment of benefits;

(ii) No benefits have been paid with respect to the week to which the claimant claims payment of benefits; and

(iii) The claimant was eligible for benefits with respect to the week to which the claimant claims payment of benefits as provided in § 50-7-303 and this section, except for the requirements of this subsection (a);

(B) Benefits shall be payable to a claimant for the waiting period, provided the claimant has made a claim for benefits and is determined to be eligible and certified for benefits in the waiting period and in each of the three (3) consecutive weeks immediately following the waiting period;

(C) **[Effective until January 1, 2021.]** Notwithstanding this subdivision (a)(5), the commissioner, in the commissioner's sole discretion, may suspend the one-week waiting period imposed by this subdivision (a)(5) in accordance with 42 U.S.C. § 1103(h)(3)(B), as enacted in the Families First Coronavirus Response Act;

(6) The claimant has satisfied the wages requirements of § 50-7-301(b);

(7) The claimant has satisfied the requirements of § 50-7-301(d); and

(8) The claimant participates in reemployment services, such as job search assistance services, if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the administrator, unless the administrator determines that:

(A) The claimant has completed the services; or

(B) There is justifiable cause for the claimant's failure to participate in the services.

(b) **Special Rules.** The following special rules shall apply in the circumstances indicated:

(1) If the qualifying base period wages of the claimant's current benefit year include wages paid prior to the establishment of a previous benefit year, the claimant shall not be eligible for any benefits under this chapter unless the claimant has been paid wages for insured work performed after the establishment of the previous benefit year equal to at least five (5) times the claimant's weekly benefit amount in the claimant's preceding benefit year;

(2) Benefits based on service after December 31, 1977, in employment defined in § 50-7-207(b)(3) and (c)(5) shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; provided, that:

(A) With respect to services performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on the services for any week of unemployment commencing during the period between two (2) successive academic years or terms, or, when an agreement provides instead for a similar period between two (2) regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the claimant's contract, to any claimant if the claimant performs the services in the first of the academic years or terms, or if there is a contract or a reasonable assurance that the claimant will perform services in that capacity for any educational institution in the second of the academic years or terms;

(B) With respect to services performed in any other capacity for an educational institution:

(i) Benefits shall not be paid on the basis of the services to any individual for any week that commences during a period between two (2) successive academic years or terms, if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms, except that;

(ii) If compensation is denied to any claimant for any week under subdivision (b)(2)(B)(i) and the claimant was not offered an opportunity to perform the services for any educational institution for the second of the academic years or terms, the claimant shall be entitled to a retroactive payment of compensation for each week for which the claimant filed a timely claim for compensation and for which compensation was denied solely by reason of subdivision (b)(2)(B)(i);

(C) With respect to weeks of unemployment beginning after December 31, 1977, benefits shall be denied to any claimant for any week that commences during an established and customary vacation period or holiday recess that has been predetermined as part of a school calendar prior to the beginning of each fiscal year if the claimant performs any services described in subdivision (b)(2)(A) or (b)(2)(B) in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the claimant will perform any such services in the period immediately following the vacation period or holiday recess;

(D) With respect to services performed for any educational institution, benefits shall not be payable on the basis of services in the capacities specified in subdivision (b)(2)(A), (b)(2)(B) or (b)(2)(C) to an individual who performed the services in an educational institution while in the employ of

an educational service agency, and for this purpose "educational service agency" means a governmental entity that is established and operated exclusively for the purpose of providing the services to one (1) or more educational institutions; and

(E) With respect to services performed for an educational institution, benefits shall not be payable on the basis of services in any such capacities as specified in subdivision (b)(2)(A), (b)(2)(B), or (b)(2)(C) to an individual who provided such services to or on behalf of an educational institution;

(3) Benefits shall not be paid to any claimant on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week that commences during the period between two (2) successive sport seasons, or similar periods, if the claimant performed the services in the first of the seasons, or similar periods, and there is a reasonable assurance that the claimant will perform the services in the later of the seasons, or similar periods; and

(4)(A) Benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for the purposes of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as the result of the application of the Immigration and Nationality Act, § 203(a)(7) or § 212(d)(5), compiled in 8 U.S.C. §§ 1153(a)(7) [deleted by amendment] and 1182(d)(5), respectively.

(B) Any data or information required of claimants applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all claimants applying for benefits.

(C) In the case of a claimant whose application for benefits would otherwise be approved, no determination that benefits to the claimant are not payable because of the claimant's alien status shall be made except upon a preponderance of the evidence.

(c) **Partial Unemployment Claims.** A penalty in the amount of fifty dollars ($50.00) may be assessed against any employer for failure to file partial claims required by regulations and within the time limits required by regulations for individuals having regular jobs with the employers, but who have sustained underemployment as defined in the regulations. In the event the commissioner finds that the employer had good cause for failure to comply with the regulations, this penalty may be waived.

50-7-403. Experience rating for employers.

(a) Except as provided in § 62-43-113(b)(2)(A)(ii) [repealed] of the Tennessee Employee Leasing Act pertaining to staff leasing companies and the clients of the staff leasing companies, for each twelve-month period beginning July 1, employers shall be classified, in accordance with the experience in the payment of premiums and with respect to benefits charged against their accounts, in order that premium rates may be assigned that will reflect the benefit and premium experience.

(b)(1) Except as provided in § 62-43-113(b)(2)(A)(ii) [repealed] of the Tennessee Employee Leasing Act pertaining to staff leasing companies and the

clients of the staff leasing companies, there shall be two (2) methods used in determining the experience rating of an employer. In each method, the benefit and premium experience is to be determined from the reserve ratio. Subdivision (b)(1)(A) shall apply to any employer whose individual account has been chargeable with benefits and subject to premiums throughout the thirty-six (36) consecutive calendar month period ending on the computation date, as defined in subdivision (k)(1), and shall continue to apply until the employer has not had a payroll subject to premiums for nine (9) consecutive calendar quarters. Any other employer subject to premiums and chargeable with benefits shall be considered a new employer and shall be subject to the applicable new employer rate as provided in subdivision (b)(1)(B).

(A) The reserve ratio of each employer subject to this subdivision (b)(1) shall be determined by totaling all premiums paid by that individual employer for all years during which that employer has been subject to this chapter and subtracting the total of all benefits charged to the account of that employer for all years. The difference shall be divided by the average taxable payroll of that employer for the three (3) most recent calendar years, ending on the computation date. The resulting quotient shall be the reserve ratio for that employer. The employer premium rate shall be determined by matching the reserve ratio to the appropriate premium rate in premium rate table 1, 2, 3, 4, 5 or 6 in subsection (g).

(B)(i) Prior to July 1, 2004, the reserve ratio assigned to all new employers shall be determined by ascertaining which of the Standard Industrial Classification (SIC) Codes applies to the employer's industry or business. The SIC Codes and the code numbers of the industries or businesses within each classification are:

01–09	Agriculture
10–14	Mining
15–17	Construction
20–39	Manufacturing
40–49	Transportation
50–59	Trade
60–67	Finance, Insurance, Real Estate
70–89	Services

A separate reserve ratio is determined for each classification by totaling all premiums paid by all employers within the same classification for all years during which these employers have been subject to this chapter and subtracting the total of all benefits charged to the accounts of those employers for all years. The difference shall be divided by the average taxable payrolls of those employers for the three (3) most recent calendar years, ending on the computation date. The new employer premium rate shall be two and seven tenths percent (2.7%) for each twelve-month period beginning July 1, except when the industry or business of the new employer falls within a classification of the SIC Code that has a reserve ratio of minus four percent (-4%) or less. In those instances only, the new employer premium rates shall be determined for each twelve-month period beginning July 1, by matching the reserve ratios to the appropriate premium rates in premium rate table 1, 2, 3, 4, 5 or 6 of subsection (g). This new employer premium rate will be assigned for each tax rate year beginning July 1, until the employer's individual account has been chargeable with benefits and subject to premiums throughout the thirty-six (36) consecutive calendar month period ending on the computation

date.

(ii) Effective July 1, 2004, the premium rate assigned to each new employer for each twelve-month period beginning July 1 shall be two and seven tenths percent (2.7%) except when the industry or business of the new employer falls within a two-digit classification of the North American Industry Classification System (NAICS) that has a reserve ratio of less than zero percent (0%). In those instances only, the new employer rates shall be determined for each twelve-month period beginning July 1 by matching the reserve ratio of a 2-digit NAICS in which the employer's industry or business is classified to the appropriate premium rates in premium rate table 1, 2, 3, 4, 5 or 6 of subsection (g). This new employer premium rate will be assigned for each tax rate year beginning each July 1, until the employer's individual account has been chargeable with benefits and subject to premiums throughout the thirty-six (36) consecutive calendar month period ending on the computation date. The reserve ratio of each two-digit NAICS is determined for each classification by:

(a) Totaling all premiums paid by all employers within the same classification, who were active anytime within the thirty-six (36) consecutive months ending on the previous December 31, for all years during which these employers have been subject to this chapter; and

(b) Subtracting the total of all benefits charged to the accounts of those employers for all years; and

(c) Dividing the difference by the average taxable payrolls of those employers for the three (3) most recent calendar years ending on the previous December 31.

The two-digit NAICS and the code numbers and the industries or businesses within each classification are:

11 Agriculture, Forestry, Fishing, Hunting

21 Mining

22 Utilities

23 Construction

31 Manufacturing — food, beverage, tobacco products, textile, apparel, leather and allied product manufacturing

32 Manufacturing — wood, paper, printing and related support services, petroleum and coal products, chemical, plastics and rubber, nonmetallic mineral product manufacturing

33 Manufacturing — primary metal, fabricated metal, machinery, computer and electronic products, electrical equipment, appliances and components, transportation equipment, furniture and related products, miscellaneous manufacturing

42 Wholesale Trade

44 Retail Trade — motor vehicle and parts dealers, furniture and home furnishings, electronics and appliances, building material and garden equipment, food and beverage, health and personal care, gasoline stations, clothing and clothing accessories stores

45 Retail Trade — sporting goods, hobby, book and music stores, general merchandise, miscellaneous store retailers, nonstore retailers

48 Transportation and Warehousing — air, rail, water, truck, transit and ground passenger, pipeline, scenic and sightseeing

transportation, support activities for transportation
49 Transportation and Warehousing — postal service, couriers and messengers, warehousing and storage
51 Information — publishing, motion picture and sound recording, broadcasting and telecommunications, information services and data processing
52 Finance and Insurance
53 Real Estate and Rental and Leasing
54 Professional, Scientific and Technical Services
55 Management of Companies and Enterprises
56 Administrative and Support and Waste Management and Remediation Services
61 Educational Services
62 Health Care and Social Assistance
71 Arts, Entertainment and Recreation
72 Accommodation and Food Services
81 Other Services, except Public Administration

(iii)*(a)* Notwithstanding subdivision (b)(1)(B)(ii), the department, in determining the experience rating for new employers in operation at least three (3) years immediately preceding the date of becoming a liable employer in Tennessee, shall allow, upon election of the employer, for an interstate transfer of the employer's experience rating.

(b) The employer shall provide the department with an authenticated account history from information accumulated from operations from the state from which the employer relocated in order to compute a Tennessee new employer premium rate.

(c) This subdivision (b)(1)(B)(iii) shall apply to all employers relocating into Tennessee on or after July 1, 2014.

(d) In the event that the unemployment trust fund balance is lower than or equal to seven hundred million dollars ($700,000,000), then the commissioner, in the commissioner's sole discretion, may suspend the use of this subdivision (b)(1)(B)(iii) to determine the new employer experience rating for employers relocating to Tennessee. The rate shall revert to the industry rate designated at the time of the suspension of this subdivision (b)(1)(B)(iii).

(e) Notwithstanding any other law to the contrary, this subdivision (b)(1)(B)(iii) shall not apply to the extent that compliance with such provisions would violate federal law or cause the department a loss of federal funding.

(C) After January 1, 1954, premiums paid up to and including January 31 shall be deemed to have been paid for the period ending December 31 of the previous calendar year, if the premiums are based on wages paid during the period ending December 31 of the previous calendar year. Benefits will be charged to employers' accounts on the basis of benefits paid during each calendar year ending on the computation date.

(2) **Mergers and Successorships.** Effective for transfers made on or after January 1, 2006, premium and benefit experience, as provided in subsections (a) and (b)(1), shall only be transferred in accordance with this subdivision (b)(2).

(A)(i) In the event of a merger of employers or employing units and the resulting employer is a new entity, the combined taxable payroll, benefit

and premium experience of the employers or employing units involved shall be computed as of the effective date of the merger to determine a new reserve ratio and premium rate applicable to the resulting employer.

(ii) In the event that any person or employing unit acquires or has acquired all or a distinct, severable, identifiable and segregable portion of the business of an employer and continues or has continued the acquired portion of the business of the predecessor, the successor shall be eligible to succeed to that part of the taxable payroll, benefit and premium experience of the predecessor that is attributable solely to that portion of the business that was acquired; provided, that:

(a) Any and all of the predecessor employer's outstanding liabilities under this chapter are paid;

(b) The parties have filed with the division of employment security a written agreement transferring the taxable payroll, benefit and premium experience, or portion of the taxable payroll, benefit and premium experience. The agreement must be executed by all of the employers or employing units involved, and must be notarized and filed during the calendar quarter in which the acquisition occurs or during the calendar quarter immediately following that quarter; and

(c) The administrator does not determine, pursuant to the factors in subdivision (b)(2)(F), that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for premiums.

(B)(i) In the event that there is only one (1) transferring employer and the successor, at the time of the acquisition, is not already an employer, as defined in § 50-7-205, the reserve ratio and premium rate applicable to the predecessor employer, with respect to the period immediately preceding the date of the transfer, applies to the successor employer for the calendar quarter in which the acquisition takes place, and remains in effect until adjusted as provided in subsections (g) and (j). In the event that the successor, at the time of the acquisition, is an employing unit, as defined in § 50-7-206, but not an employer, as defined in § 50-7-205, the successor shall, as of the first day of the calendar year during which the transfer is made, become an employer under this chapter, and the successor's premium rate, from January 1 of the year in which the acquisition takes place until the first day of the calendar quarter during which the acquisition takes place, shall be the applicable new employer premium rate as provided in subdivision (b)(1)(B).

(ii) In the event that the successor is already an employer at the time of the acquisition, the reserve ratio applicable at the time of the acquisition to the successor employer shall continue to be applicable until the end of the rate year in which the succession occurs.

(iii) Commencing with the next premium rate year after an employer has transferred a distinct, severable, identifiable and segregable portion of the employer's business, the reserve ratio and premium rate of the predecessor employer shall be based on the portion of the taxable payroll, benefit and premium experience remaining to the credit of the predecessor employer after the transfer.

(C) Notwithstanding any other law, this subdivision (b)(2)(C) shall apply regarding assignment of premium rates and transfers of benefit and premium experience of an employer's trade or business, or a portion of an

employer's trade or business, to another employer, if, at the time of the transfer, there is any common ownership, management or control of the two (2) employers. In such cases, the benefit and premium experience attributable to the transferred trade or business shall be transferred to the employer to whom the trade or business is so transferred. The reserve ratios and premium rates of both employers shall be recalculated and made effective immediately upon the date of the transfer of the trade or business. For the purposes of this section:

(i) "Trade or business" includes the employer's workforce;

(ii) "Common ownership, management or control" includes any individual who has at least a ten percent (10%) ownership interest in or participates in the management or control of the predecessor's trade or business, and who has a relative who has a ten percent (10%) ownership interest in or participates in the management or control of the successor's trade or business; and

(iii) For purposes of this subdivision (b)(2)(C), "relative" means spouse, child, stepchild, adopted child, grandchild, son-in-law, daughter in-law, parent, step-parent, parent-in-law, grandparent, brother, sister, half brother, half sister, step-brother, step-sister, brother-in-law, sister-in-law, aunt, uncle, nephew and niece.

(D) If, following a transfer of experience under subdivision (b)(2)(C), the administrator, pursuant to the factors in subdivision (b)(2)(F), determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for premiums, the experience rating factors of the employers involved shall be combined into a single account and a single premium rate assigned to the account as of the date of the transfer.

(E) If a person or employing unit is not an employer under this chapter at the time the person or employing unit acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to the person or employing unit, if the administrator, pursuant to the factors in subdivision (b)(2)(F), finds that the person or employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of premiums. Instead, the person or employing unit shall be assigned the applicable new employer rate under subdivision (b)(1)(B).

(F) In determining whether a business was acquired, or a transfer of a trade or business, or portion of a trade or business, was made solely or primarily or substantially for the purpose of obtaining a lower rate of premiums, the administrator shall use objective factors, which may include the cost of acquiring the business, whether the person or employing unit continued the business enterprise of the acquired business, how long the business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(G) **Enforcement.** Any person or employing unit that knowingly violates or attempts to violate this section, or knowingly advises another person or employing unit to violate this section, shall be subject to the following penalties and punishments:

(i) Both the predecessor and successor employers:

(a) Shall be assigned the applicable premium rate under the laws of this chapter, and shall immediately owe the department the difference

between the premiums determined by the applicable premium rate and the premiums actually paid, plus any interest due as provided in § 50-7-404(a); and

(b) Shall pay, in addition to their applicable premium rate, a penalty rate of two percent (2%) of the taxable payroll for each quarter, beginning on the date of the infraction and continuing throughout the three (3) premium rate years following the first July 1 after the date on which the department made the determination of the infraction. Revenue from the penalty rate shall be deposited into the unemployment compensation special administrative fund, established under § 50-7-503, and shall not be included in the determination of an employer's reserve ratio as provided in subdivision (b)(1)(A);

(ii) Any person found in violation of this section, against whom the penalties as set forth in subdivision (b)(2)(G)(i) are not enforceable, is subject to a civil money penalty of not more than fifty thousand dollars ($50,000). In making the assessment, the administrator shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person or employing unit charged, the gravity of the violation, the good faith of the person or employing unit, and the person or employing unit's history of previous violations. The penalty shall be deposited in the unemployment compensation special administrative fund, established under § 50-7-503; and

(iii) In addition to the penalties imposed by subdivisions (b)(2)(G)(i) and (ii), any violation of this subdivision (b)(2) may be prosecuted as a Class A misdemeanor under title 40, chapter 35.

(H) For purposes of this subdivision (b)(2):

(i) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved;

(ii) "Violates or attempts to violate" means, but is not limited to, intent to evade, misrepresentation or willful nondisclosure; and

(iii) "Person" has the meaning given that term by § 7701(a)(1) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 7701(a)(1).

(I) The administrator shall establish procedures to identify the transfer or acquisition of a business for purposes of this subdivision (b)(2).

(J) This subdivision (b)(2) shall be interpreted and applied in a manner that meets the minimum requirements contained in any guidance or regulations issued by the United States department of labor.

(K) As provided in § 62-43-113(b)(2)(A)(ii)(*b*) [repealed] of the Tennessee Employee Leasing Act, a staff leasing company shall not be considered a successor employer, within the meaning of this section, to any client and shall not acquire the experience history of any client with whom there is not any common ownership, management or control. Upon terminating the relationship with the staff leasing company, the client shall not be considered a successor employer, within the meaning of this chapter, to the staff leasing company and shall not acquire any portion of the experience history of the aggregate reserve account of the staff leasing company with whom there is not any common ownership, management or control.

(L) Nothing in this section shall be construed to authorize or require the refund of any sums lawfully paid into the unemployment compensation fund created by Acts 1936 (1st E.S.), ch. 1, § 9(a), [repealed], and by Acts 1947, ch. 29, § 9(A), as amended, § 6901.9(A) of the Code Supplement of

1950 or by § 50-7-501(a).

(c) Nothing in this section shall be construed to grant any employer, or individuals in any employer's service, or otherwise, prior claim or rights to the amounts paid by the employer into the fund either on behalf of the employer or on behalf of the claimants.

(d)(1)(A) Benefits paid to a claimant for the year 1941 and subsequent years are to be charged to the accounts of the claimant's employers in the base period, the amount of the charges, chargeable to the account of each employer, to be that portion of the total benefits paid the claimant as the wages paid the claimant by the employer in the base period are to the total wages paid the claimant during the claimant's base period for insured work by all the claimant's employers in the base period.

(B)(i) Except as provided in § 50-7-304(b)(2)(D), no employer's account shall be charged hereunder for any benefits paid to a former employee who left the employment of the employer under conditions that result in the imposition of a disqualification under § 50-7-303(a)(1), (a)(2), or (a)(4), or that would have resulted in a disqualification under such subdivision except for a following period of bona fide employment by another employing unit. However, if the employer fails to establish that fact, by submitting the information as the administrator may require, within fifteen (15) calendar days after the date of mailing of written notification by the administrator, that the claimant has first filed a claim for benefits to the last known address of the employer, or within fifteen (15) calendar days after the date the written notification is given to the employer, whichever first occurs, the employer's account will be charged for the benefit payments.

(ii) No employer's account shall be charged for any benefits paid to a former employee who left the employer to enter training approved under the Trade Act of 1974; provided, that the work left is not suitable employment as defined under § 236(e) of the Trade Act of 1974, codified in 19 U.S.C. § 2296.

(iii) The noncharging provisions referred to in subdivisions (d)(1)(B)(i) and (ii) do not apply to eligible employers who elect to reimburse the state for benefits paid in lieu of premiums, as provided by the federal Unemployment Tax Act, compiled in 26 U.S.C. § 3301 et seq., or this chapter.

(C)(i) Benefits paid to an individual who, during the individual's base period, was paid wages for part-time employment with an employer shall not be used as a factor in determining the future premium rate of the employer if the employer continues to give employment to the claimant to the same extent while the claimant is receiving benefits as during the base period. However, if the employer fails to establish that fact, by submitting information the administrator requires, within fifteen (15) calendar days after the date of mailing of written notification by the administrator, that the claimant has first filed a claim for benefits to the last known address of the employer or within fifteen (15) calendar days after the date the written notice is given to the employer, whichever first occurs, the employer's account will be charged for the benefit payments.

(ii) The noncharging provision referred to in subdivision (d)(1)(C)(i) does not apply to eligible employers who elect to reimburse the state for benefits paid in lieu of premiums, as provided by the federal Unemploy-

ment Tax Act, compiled in 26 U.S.C. § 3301 et seq., or this chapter.

(2) One-half (½) of extended benefits paid to a claimant for the year 1971 and subsequent years are to be charged to the accounts of the claimant's employers in the base period in the same manner provided for the charging of regular benefits with respect to calendar year 1941 and subsequent years hereinbefore set forth.

(3) Benefits paid based on wage credits that are required to be transferred from the state under the wage combining plan referred to in § 50-7-706(a) may not be noncharged except to the extent permitted by both this chapter and the federal Unemployment Tax Act, compiled in 26 U.S.C. § 3301 et seq.

(4) Notwithstanding any other provisions of this chapter, no employer's experience rating account shall be charged, and no employer shall be liable for payments in lieu of premiums, with respect to any benefits or extended benefits that are reimbursed to the state by the federal government.

(5) Unemployment insurance benefits paid to claimants for unemployment that is directly caused by a major natural disaster declared by the president of the United States pursuant to the Disaster Relief Act of 1974 and the Disaster Relief and Emergency Assistance Amendments of 1988 will not be charged to the account of any base-period premium paying employer of the individuals, if the individuals would have been eligible for disaster unemployment assistance with respect to that unemployment but for their receipt of unemployment insurance benefits.

(6) Any employer that elects to make payments in lieu of premiums into the unemployment compensation fund as provided in this subdivision (d)(6) shall not be liable to make the payments with respect to the benefits paid to any claimant whose base-period wages include wages for previously uncovered services, as defined in § 50-7-213, to the extent that the unemployment compensation fund is reimbursed for the benefits pursuant to § 121 of Pub. L. No. 94-566, entitled the Unemployment Compensation Amendments of 1976.

(7) Benefits paid to any claimant whose base-period wages include wages for previously uncovered services, as defined in § 50-7-213, shall not be charged to any taxpaying employers (premium paying employers as distinguished from the employers that are eligible to elect and who do elect to make reimbursement payments in lieu of premiums) account to the extent that the unemployment compensation fund is reimbursed for the benefits pursuant to § 121 of Pub. L. No. 94-566, entitled the Unemployment Compensation Amendments of 1976.

(8) **[Effective until January 1, 2021.]** Notwithstanding subdivision (d)(1)(A), the commissioner, in the commissioner's sole discretion, may authorize, in whole or in part, a noncharge to the account of a contributory employer that is in the claimant's base period for any unemployment benefits paid to a claimant as a result of the COVID-19 pandemic and its effects, in accordance with 42 U.S.C. § 1103(h)(3)(B), as enacted in the Families First Coronavirus Response Act.

(e) The standard rate of premiums payable shall be five and one half percent (5.5%) with respect to nongovernmental employers and one and one half percent (1.5%) with respect to governmental employers, except as provided in this section.

(f) In the event that the division of employment security has not received before April 1 reports giving the necessary payroll information to determine an

employer's reserve ratio applicable for the next premium rate year, the taxable payroll of the most recent calendar year in which the employer submitted all reports due with an increase of fifty percent (50%) will be used in computing the reserve ratio applicable for the next premium rate year if the employer has a plus reserve on the most recent computation date. For those employers with a minus reserve as of the most recent computation date, the payroll of the most recent calendar year in which the employer submitted all reports will be reduced by fifty percent (50%). However, no employer with a zero (0) or plus reserve will be assigned a rate based on a minus reserve, and no employer with a minus reserve will be assigned a rate greater than the highest rate in the applicable premium table set forth in subsection (g).

(g) Variations from the standard rate of premiums for employers other than those referred to in § 50-7-207(b)(3)(A) and (B) shall be determined, beginning January 1, 2009, by the reserve ratio of each employer in accordance with premium rate chart for nongovernmental employers tables 1, 2, 3, 4, 5 or 6 as set forth in this subsection (g), depending on the provisions of subsection (j); provided, however, that beginning January 1, 2009, there shall be imposed an additional premium of six-tenths of one percent (0.6%) on all rates in tables 1, 2 and 3, until such time as the unemployment trust fund balance equals or exceeds six hundred fifty million dollars ($650,000,000), as determined in accordance with subsection (j), at which time such additional premium shall expire.

PREMIUM RATE CHART FOR NONGOVERNMENTAL EMPLOYERS

Reserve Ratio Percent	Premium Table 1 Trust Fund under $450 Million	Premium Table 2 Trust Fund $450 to under $525 million	Premium Table 3 Trust Fund $525 to under $650 million	Premium Table 4 Trust Fund $650 to under $750 million	Premium Table 5 Trust Fund $750 to under $850 million	Premium Table 6 Trust Fund $850 million and over
20.0 and over	0.50	0.45	0.40	0.30	0.15	0.01
18.0 and less than 20.0	0.70	0.65	0.55	0.35	0.20	0.05
16.0 and less than 18.0	0.90	0.70	0.65	0.40	0.25	0.10
14.0 and less than 16.0	1.10	0.75	0.70	0.45	0.32	0.17
12.0 and less than 14.0	1.30	1.20	1.00	0.50	0.40	0.25
11.0 and less than 12.0	1.60	1.40	1.20	0.75	0.60	0.30
9.5 and less than 11.0	2.10	1.80	1.50	1.00	0.80	0.50
8.0 and less than 9.5	2.50	2.10	1.80	1.20	1.00	0.70
7.0 and less than 8.0	2.90	2.50	2.10	1.50	1.30	1.00
6.0 and less than 7.0	3.30	2.80	2.40	1.80	1.60	1.30
5.0 and less than 6.0	3.80	3.20	2.65	2.10	1.90	1.60
2.7 and less than 5.0	4.10	3.50	3.00	2.40	2.20	1.90
0.0 and less than 2.7	4.50	3.90	3.30	3.00	2.60	2.30
Less than 0.0 and more than -2.0	5.00	5.00	5.00	5.00	5.00	5.00
-2.0 and more than -4.0	5.50	5.50	5.50	5.50	5.50	5.50
-4.0 and more than -6.0	6.00	6.00	6.00	6.00	6.00	6.00
-6.0 and more than -8.0	6.50	6.50	6.50	6.50	6.50	6.50
-8.0 and more than -10.0	7.00	7.00	7.00	7.00	7.00	7.00
-10.0 and more than -12.0	7.50	7.50	7.50	7.50	7.50	7.50
-12.0 and more than -14.0	8.00	8.00	8.00	8.00	8.00	8.00
-14.0 and more than -16.0	8.50	8.50	8.50	8.50	8.50	8.50
-16.0 and more than -18.0	9.00	9.00	9.00	9.00	9.00	9.00
-18.0 and more than -20.0	9.50	9.50	9.50	9.50	9.50	9.50
-20.0 and under	10.00	10.00	10.00	10.00	10.00	10.00

Variations from the standard rate of contributions for governmental employers referred to in § 50-7-207(b)(3)(A) and (B) shall be determined by the reserve ratio of each governmental employer in accordance with the premium rate chart for governmental employers set forth below.

PREMIUM RATE CHART FOR GOVERNMENTAL EMPLOYERS

Reserve Ratio Percent	Premium Rate Percent
8.0 and over	0.3
7.0 and less than 8.0	0.4
6.0 and less than 7.0	0.6
5.0 and less than 6.0	0.8
4.0 and less than 5.0	1.0
3.0 and less than 4.0	1.2
2.0 and less than 3.0	1.4
1.5 and less than 2.0	1.5
1.0 and less than 1.5	1.6
0.5 and less than 1.0	1.7
0.0 and less than 0.5	1.8
Less than 0.0 and more than -3.5	2.0
-3.5 and more than -7.0	2.2
-7.0 and more than -10.0	2.4
-10.0 and more than -13.0	2.7
-13.0 and under	3.0

(h) Benefits paid to employees of nonprofit organizations shall be financed in accordance with this subsection (h). For the purpose of this subsection (h), a nonprofit organization is an organization, or group of organizations, described in § 501(c)(3) of the Internal Revenue Code, compiled in 26 U.S.C. § 501(c)(3), that is exempt from income tax under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a).

(1) Any nonprofit organization that, pursuant to § 50-7-205(5) is, or becomes, subject to this chapter on or after January 1, 1972, shall pay premiums under §§ 50-7-401, 50-7-402 and this section, unless it elects, in accordance with this subdivision (h)(1), to pay to the administrator for the unemployment fund an amount equal to the amount of regular benefits and of one half (½) of the extended benefits paid, that is attributable to service in the employ of the nonprofit organization, to claimants for weeks of unemployment that begin during the effective period of the election.

(A) Any nonprofit organization that becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of premiums for a period of not less than twelve (12) months ending with a taxable year and beginning with the date on which the subjectivity begins by filing a written notice of its election with the administrator not later than thirty (30) days immediately following the date of the determination of the subjectivity.

(B) Any nonprofit organization that makes an election in accordance with subdivision (h)(1)(A) will continue to be liable for payments in lieu of premiums until it files with the administrator a written notice terminating its election not later than thirty (30) days prior to the beginning of the taxable year for which the termination first becomes effective.

(C) Any nonprofit organization that has been paying premiums under this chapter for a period subsequent to January 1, 1972, may change to a

reimbursable basis by filing with the administrator, not later than thirty (30) days prior to the beginning of any taxable year, a written notice of election to become liable for payments in lieu of premiums. The election shall not be terminable by the organization for that taxable year and the next taxable year.

(D) The administrator may, for good cause, extend the period within which the notice of election, or a notice of termination, must be filed and may permit an election to be retroactive, but not any earlier than with respect to benefits paid after December 31, 1969.

(E) The administrator, in accordance with regulations the commissioner prescribes, shall notify in writing each nonprofit organization of any determination that the administrator may make of its status as an employer and of the effective date of any election that it makes and of any termination of the election. The determinations shall be subject to review and redetermination in accordance with § 50-7-404(h).

(F) For the purposes of this subsection (h), "taxable year" means the period beginning January 1, 1972, through June 30, 1973, and thereafter the period beginning July 1 and extending through June 30 of the following year.

(2) Payments in lieu of premiums shall be made in accordance with this subdivision (h)(2), including either subdivision (h)(2)(A) or (B), which follows:

(A) At the end of each calendar quarter, or at the end of any other period as determined by the administrator, the administrator shall bill each nonprofit organization, or group of organizations, that has elected to make payments in lieu of premiums for an amount equal to the full amount of regular benefits, plus one-half (½) of the amount of extended benefits paid during the quarter or other prescribed period that is attributable to service in the employ of the organization; or

(B)(i) Each nonprofit organization that has elected payments in lieu of premiums may request permission to make the payments as provided in this subdivision (h)(2). The method of payment shall become effective upon approval by the administrator;

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the administrator, the administrator shall bill each nonprofit organization for an amount representing one (1) of the following:

(a) For years after 1972, the percentage of its total payroll for the immediately preceding calendar year that the administrator determines. The determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year; or

(b) For any organization that did not pay wages throughout the four (4) calendar quarters of the preceding calendar year, the percentage of its payroll during the year that the administrator determines;

(iii) At the end of each taxable year, the administrator may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments;

(iv) At the end of each taxable year, the administrator shall determine whether the total of payments for the year made by a nonprofit organization is less than, or in excess of, the total amount of regular

benefits, plus one-half (½) of the amount of extended benefits paid to claimants during the taxable year based on wages attributable to service in the employ of the organization. Each nonprofit organization whose total payments for the year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with subdivision (h)(2)(C). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess may, at the discretion of the administrator, be refunded from the fund or retained in the fund as part of the payments that may be required for the next taxable year.

(C) Payment of any bill rendered under subdivision (h)(2)(A) or (h)(2)(B) shall be made not later than thirty (30) calendar days after the date the bill is mailed to or given to the organization, whichever occurs first, unless the organization has timely filed with the division of employment security a written application for review and redetermination in accordance with § 50-7-404(h);

(D) Payments made by any nonprofit organization under this subsection (h) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(E) The amount due specified in any bill shall be conclusive on the organization, unless the organization has timely filed with the division of employment security a written application for review and redetermination in accordance with § 50-7-404(h); and

(F) Past-due payments of amounts in lieu of premiums shall be subject to the same interest and penalties that, pursuant to § 50-7-404, apply to the past-due premiums.

(3) If any nonprofit organization is delinquent in making payments in lieu of premiums as required under subdivision (h)(2), the administrator may terminate the organization's election to make payments in lieu of premiums as of the beginning of the next taxable year, and the termination shall be effective for that and the next taxable year.

(4) Each employer that is liable for payments in lieu of premiums shall pay to the administrator for the fund the amount of regular benefits, plus the amount of one-half (½) of extended benefits paid that are attributable to service in the employ of the employer. If benefits paid to a claimant are based on wages paid by more than one (1) employer and one (1) or more of the employers are liable for payments in lieu of premiums, the amount payable to the fund by each employer that is liable for the payments shall be determined in accordance with subdivision (h)(4)(A) or (h)(4)(B):

(A) **Proportionate allocation, when fewer than all base-period employers are liable for reimbursement.** If benefits paid to a claimant are based on wages paid by one (1) or more employers who are liable for payments in lieu of premiums and on wages paid by one (1) or more employers who are liable for premiums, the amount of benefits payable by each employer that is liable for payments in lieu of premiums shall be an amount that bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the claimant by the employer bear to the total base-period wages paid to the claimant by all of the claimant's base-period employers; or

(B) **Proportionate allocation, when all base-period employers are liable for reimbursement.** If benefits paid to a claimant are based on wages paid by two (2) or more employers that are liable for payments

in lieu of premiums, the amount of benefits payable by each employer shall be an amount that bears the same ratio to the total benefits paid to the claimant as the total base-period wages paid to the claimant by the employer bear to the total base-period wages paid to the claimant by all of the claimant's base-period employers.

(5)(A)(i) Two (2) or more employers that have become liable for payments in lieu of premiums, in accordance with subdivision (h)(1), may file a joint application to the administrator for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of the employers.

(ii) Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision (h)(5).

(iii) Upon the administrator's approval of the application, the administrator shall establish a group account for the employers effective as of the beginning of the calendar quarter in which the administrator receives the application and shall notify the group's representative of the effective date of the account.

(iv) The account shall remain in effect for not less than two (2) years and thereafter until terminated at the discretion of the administrator or upon application by the group.

(v) Upon establishment of the account, each member of the group shall be liable for payments in lieu of premiums with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by the member in the quarter bear to the total wages paid during the quarter for service performed in the employ of all members of the group.

(vi) The commissioner shall prescribe regulations the commissioner deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subdivision (h)(5)(A), for addition of new members to, and withdrawal of active members from, the accounts, and for the determination of the amounts that are payable under this subdivision (h)(5)(A) by members of the group and the time and manner of the payments.

(B) For the purpose of this chapter, this state, the different designated entities of this state, and each of its political subdivisions are regarded as individual governmental entities, and each governmental entity is individually accorded the option of electing to pay premiums or make payments in lieu of premiums to the full extent provided in this section.

(C) Insofar as these governmental employers are concerned and insofar as newly covered nonprofit organizations becoming liable as a result of this chapter on or after January 1, 1978, are concerned, "taxable year" means the period beginning January 1, 1978, through June 30, 1979, and thereafter the period beginning July 1 and extending through June 30 of the following year; provided, that any employing unit becoming an employer as a result of § 50-7-205(4) (state and local governmental entities) is liable to pay premiums as set forth in this chapter, unless it elects in accordance with this section to pay to the administrator for the unemployment fund, an amount equal to the amount of regular benefits

and the amount of extended benefits paid that are attributable to service in the employ of the governmental employer to claimants for weeks of unemployment that begin during the effective period of the election with the exception of benefits or extended benefits reimbursed to the state by the federal government pursuant to applicable law.

(i) State-owned institutions of higher education and state-owned hospitals that are employers under § 50-7-205(4) are accorded the same options relating to the payment of premiums or reimbursement for benefits paid as those accorded nonprofit organizations under subsection (h).

(j)(1) The administrator shall, on June 30 and December 31 of each year, make and publish findings as to the balance in the unemployment compensation trust fund. The balance the administrator finds in the trust fund shall determine the appropriate premium table applicable for the subsequent six-month period as to all employers who qualify under subdivision (b)(1) for a premium rate based on subdivision (b)(1)(A).

(2) This section shall not apply to those employers referred to in § 50-7-207(b)(3)(A) and (B).

(k) As used in this chapter:

(1) "Computation date" means December 31 of each calendar year with respect to rates of premiums applicable for the twelve-month period beginning with the following July 1;

(2) "Premium rate year" means the period of time beginning July 1 of any year and ending on June 30 of the succeeding year; and

(3) "Taxable payroll" means the total amount of taxable wages paid for employment by an employer during a twelve-month period ending on December 31.

(*l*) The administrator shall promptly notify each employer of the employer's rate of premiums as determined for any period pursuant to this section, and shall also provide for periodic notification to each employer of benefits paid and chargeable to the employer's account, or the status of the employer's account, and the administrator shall further make rules and regulations necessary to make this section effective.

(m)(1) If the administrator finds that an employer's business is closed solely because of the entrance of one (1) or more of the owners, officers, partners, or the majority stockholder, into the armed forces of the United States or of any of its allies, or of the United Nations, after July 1, 1950, the employer's account shall not be terminated; and, if the business is resumed within two (2) years after the discharge or release from active duty in the armed forces of that person or persons, the employer's experience shall be deemed to have been continuous throughout the period.

(2) The reserve ratio of the employer shall be the total premiums paid by the employer, minus all benefits, including benefits paid to any claimant during the period such employer was in the armed forces, based upon the wages paid by the employer prior to the employer's entrance into the forces, divided by the employer's average taxable payroll for the three (3) most recent calendar years ending on the computation date during the whole of which respectively the employer has been in business.

(3) This subsection (m) does not authorize cash refunds; any adjustments required under this subsection (m) shall be only by credit against premiums due or to be due by the employer.

(n)(1) Any premium rate determination rendered with respect to an employer pursuant to this chapter shall be final and conclusive upon the

employer for all purposes and in all proceedings whatsoever unless the employer has timely filed with the division of employment security a written application for review and redetermination in accordance with § 50-7-404(h).

(2) Subdivision (n)(1) does not change any cutoff dates as set forth in other sections of the law for filing reports or claims for refund giving the information necessary for computation of rates.

50-8-104. Remittance of tip to marketplace contractor.

If a third party uses a marketplace platform's online-enabled application, software, website, or system to engage the services of a marketplace contractor and the marketplace platform provides an option for third parties to include a tip in connection with the transaction, then the marketplace platform shall remit the tip to the marketplace contractor and shall not retain any amount of a tip or use it to cover the marketplace platform's obligations to the marketplace contractor.

50-10-101. Short title.

This chapter shall be known and may be cited as the "Tennessee Pregnant Workers Fairness Act."

50-10-102. Chapter definitions.

As used in this chapter:

(1) "Commissioner" means the commissioner of labor and workforce development;

(2) "Employer" means a person employing fifteen (15) or more employees;

(3) "Reasonable accommodation" may include:

(A) Making existing facilities used by employees readily accessible and usable;

(B) Providing more frequent, longer, or flexible breaks;

(C) Providing a private place, other than a bathroom stall, for the purpose of expressing milk;

(D) Modifying food or drink policy;

(E) Providing modified seating or allowing the employee to sit more frequently if the job requires standing;

(F) Providing assistance with manual labor and limits on lifting;

(G) Authorizing a temporary transfer to a vacant position;

(H) Providing job restructuring or light duty, if available;

(I) Acquiring or modifying of equipment, devices, or an employee's work station;

(J) Modifying work schedules; and

(K) Allowing flexible scheduling for prenatal visits; and

(4) "Undue hardship" means an action requiring significant difficulty or expense.

50-10-103. Reasonable accommodations for pregnant workers — Medical certification.

(a) An employer is not required to do the following unless the employer does or would do so for another employee or a class of employees that need a

reasonable accommodation:

(1) Hire new employees that the employer would not have otherwise hired;

(2) Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job;

(3) Create a new position, including a light duty position for the employee, unless a light duty position would be provided for another equivalent employee;

(4) Compensate an employee for more frequent or longer break periods, unless the employee uses a break period that would otherwise be compensated; or

(5) Construct a permanent, dedicated space for expressing milk.

(b) It is an unlawful employment practice for an employer to:

(1) Fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or an employee, unless the employer demonstrates that the accommodation would impose an undue hardship on the operation of the business of the employer;

(2) Require an employee to take leave under a leave law or policy adopted by the employer if another reasonable accommodation can be provided to the known limitations for medical needs arising from the employee's pregnancy, childbirth, or related medical conditions; or

(3) Take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from the employee's pregnancy, childbirth, or related medical conditions, including, but not limited to, counting an absence related to pregnancy under no fault attendance policies.

(c) An employer may, if required of other employees with medical conditions, request that an employee with a medical need relating to pregnancy, childbirth, or related medical conditions provide medical certification from a healthcare professional if the employee is requesting a reasonable accommodation related to temporary transfer to a vacant position, job restructuring, or light duty, or an accommodation that requires time away from work. During the time period in which an employee is making good faith efforts to obtain medical certification, an employer must begin engaging in a good faith interactive process with the employee to determine if a reasonable accommodation can be provided absent undue hardship. An employer shall not take adverse action against an employee related to the employee's need for accommodation while the employee is engaging in good faith efforts to obtain medical certification.

50-10-104. Enforcement — Rules — Civil action.

(a) The commissioner shall enforce this chapter and may promulgate rules necessary to effectuate this chapter in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Any person adversely affected by an act in violation of this chapter may bring a civil action in the chancery court or circuit court in the jurisdiction where the alleged violation occurred. In the action, a court may issue back pay, compensatory damages, prejudgment interest, reasonable attorney's fees, and

any legal or equitable relief that will effectuate the purpose of this chapter.

(c) A civil action under this chapter must be commenced no later than one (1) year from the date of termination of employment or the date of the adverse employment action. An employee is not required to pursue an action in chancery or circuit court, and may bring an action in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.