

Shelby County Board of Education

6062
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Unsafe School Choice

I. PURPOSE

To provide any student who attends a persistently dangerous school, or any student who has been the victim of a violent crime while at school, the opportunity to attend a safe school.

II. SCOPE

This policy applies to all students in the Shelby County Schools.

III. DEFINITIONS

A “violence-related disciplinary action” is defined as an action taken for any of the following offenses:

1. Possession or use of a firearm, as defined in 18 U.S.C. § 921.
2. Battery of a teacher or school employee (including a school resource officer assigned to the school). For purposes of this policy, battery is defined as intentional or reckless physical contact with a person without his or her consent that causes bodily injury.
3. Possession or use of a weapon other than a firearm (as defined in TCA 39-17-1309).
4. A violent criminal offense as identified and defined in T.C.A. 40-38-111(g) (see attached statutory definitions):
 - Aggravated arson
 - Aggravated assault,
 - Aggravated child abuse and neglect,
 - Aggravated kidnapping,
 - Aggravated rape,
 - Aggravated robbery,
 - Aggravated sexual battery,
 - Aggravated spousal rape,
 - Spousal rape
 - Spousal sexual battery,
 - Aggravated vehicular homicide,

- Carjacking,
- Criminally negligent homicide,
- Especially aggravated burglary,
- Especially aggravated kidnapping,
- Especially aggravated robbery,
- First degree murder,
- Incest, Kidnapping,
- Rape,
- Rape of a child,
- Reckless homicide,
- Second degree murder,
- Sexual battery by an authority figure,
- Sexual battery,
- Stalking,
- Statutory rape,
- Vehicular assault,
- Voluntary manslaughter.

IV. POLICY STATEMENT

Shelby County Schools shall provide to a student or the parent/guardian of a student who attends a persistently dangerous school or a student who has been the victim of a violent crime while at school with an opportunity to transfer to another school within the district that is safe for the student. To the extent possible, SCS shall allow students who qualify under the unsafe school choice policy to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action or restructuring. SCS shall take into account the needs and preferences of the affected students and parents and shall assume necessary transportation costs associated with the student attending a safe school.

A. PERSISTENTLY DANGEROUS SCHOOLS

Any public elementary or secondary school, with the exception of a school established specifically for serving suspended or expelled students or students with behavioral disabilities, shall be considered persistently dangerous if it meets the following criteria for three consecutive years:

1. Has violence-related disciplinary actions as reported on the Annual Report of Zero Tolerance Offense; or
2. Has students who have been the victim of a violent crime at school; and,

3. The sum of violence-related disciplinary actions and/or incidents of student victimization identified in criteria # 1 and criteria # 2 above are equal to or greater than 3% of the school's average daily membership.

Required Actions

Year 1: Any school meeting the criteria for a persistently dangerous school shall receive notification from the Tennessee Department of Education. The district shall direct available federal and state resources to the school to identify problems and implement corrective action.

Year 2: Any school meeting the criteria for a persistently dangerous school for the second consecutive year shall evaluate its current school safety practices and submit a corrective action plan to the Tennessee Department of Education.

Year 3: Any school meeting the criteria for a persistently dangerous school for three consecutive years shall be designated by the Tennessee Department of Education as a persistently dangerous school. Within 30 days of receiving notice of the designation the superintendent shall:

- 1) Notify the parents or guardians of all students attending the school that the school has been designated by the Tennessee Department of Education as a persistently dangerous school and provide for all students to be given safe school choice as provided for under the No Child Left Behind Act of 2001.
- 2) Submit a corrective action plan to the Commissioner of Education outlining the specific actions and timetable that the school will follow to insure the safety of students and faculty.

Right to Appeal

A school designated as a persistently dangerous school shall have the right to appeal the designation. The appeal must be submitted by the superintendent to the Commissioner of Education within 15 calendar days of being notified of the persistently dangerous designation and must present clear evidence that the school provides a safe and disciplined learning environment for all students. A committee of practitioners appointed by the Commissioner of Education shall review the appeal within 15 calendar days.

Removal of Designation

Upon implementation of the approved corrective action plan and the completion of one school year with a level of dangerous incidents below the criteria established above, a school shall no longer be considered persistently dangerous.

B. VICTIM OF A VIOLENT CRIME AT SCHOOL

A student shall be considered the victim of a violent crime at school when the following criteria are met:

1. Evidence is found to reasonably indicate that the student has been the victim of any of the applicable offenses identified in TCA 40-38-111(g) or the attempt to commit one of the applicable offenses as defined under TCA 39-12-101(see attached statutory definitions); and
2. The offense occurred while the student was attending school or a school-sponsored activity during school hours or traveling to or from school on a school bus.

Required Actions (Refer also to policy 6061, Mandatory Reporting Procedures for Criminal Offenses)

1. The principal or a designated representative of a school where an alleged incident of student violent crime victimization has occurred shall immediately report the incident to the appropriate law enforcement agency.
2. Promptly following an investigation by appropriate law enforcement personnel, the principal or a designated representative shall determine whether or not reasonable evidence exists to indicate that a student has been the victim of a violent crime. Identification of a perpetrator and/or the filing of criminal charges shall not be considered a prerequisite for determining that a student has been victimized.
3. Upon determination that a student has been victimized, and within ten school days of the event, the superintendent shall offer the student and his/her parent(s) or guardian(s) safe school choice.
4. The principal or a designated representative shall file a report with the Tennessee Department of Education as requested by the Commissioner.

Parental Notification

Every public school shall annually notify parents that if their child is the victim of a violent crime at school, the child has the right to attend another grade-appropriate public school in the district.

V. RESPONSIBILITY

A. The Office of the Chief Academic Officer is responsible for enforcing this policy and informing principals and other school personnel of the requirements of the law.

B. Principals are responsible for fact-finding and reporting incidents of violent crime in schools.

C. The Office responsible for research, evaluation and assessment is responsible for keeping reports and statistics on incidents of violence in schools.

D. The Superintendent is responsible for insuring that the district properly implements this policy.

Legal References:

1. 18 U.S.C. § 921
2. TCA 39-17-1309
3. TCA 40-38-111(g)
4. No Child Left Behind Act of 2001
5. TCA 39-12-101

Cross References:

6061– Mandatory Reporting
Procedures for Criminal
Offenses

Reportable Criminal Offenses – Definitions

Violent criminal offenses as well as attempt to commit the criminal offenses is defined by TCA 40-38-111(g), TCA 39-12-101 and other applicable state law. Definitions below preceded by an asterisk are not identified under TCA 40-38-111(g) as violent crimes, but, is provided when necessary to accurately define another crime (for example, *arson* is not identified under state law as a violent crime, but *aggravated arson* is identified).

***39-12-101. Criminal attempt. (not considered a violent crime under TCA 40-38-111(g))**

- (a) A person commits criminal attempt who, acting with the kind of culpability otherwise required for the offense:
 - (1) Intentionally engages in action or causes a result that would constitute an offense if the circumstances surrounding the conduct were as the person believes them to be;
 - (2) Acts with intent to cause a result that is an element of the offense, and believes the conduct will cause the result without further conduct on the person's part; or
 - (3) Acts with intent to complete a course of action or cause a result that would constitute the offense, under the circumstances surrounding the conduct as the person believes them to be, and the conduct constitutes a substantial step toward the commission of the offense.
- (b) Conduct does not constitute a substantial step under subdivision (a)(3) unless the person's entire course of action is corroborative of the intent to commit the offense.
- (c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

39-14-302. Aggravated arson.

- (a) A person commits aggravated arson who commits arson as defined in *§39-14-301 or §39-14-303:
 - (1) When one (1) or more persons are present therein; or
 - (2) When any person, including firefighters and law enforcement officials, suffers serious bodily injury as a result of the fire or explosion.
- (b) (1) Aggravated arson is a Class A felony. It is an enhancement factor by which the court the court may increase a defendant's sentence within the appropriate range that the damage or destruction was caused to a structure, whether temporary or permanent in nature, used as a place of worship.
 - (2) As used in this subsection (b), "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.

***39-14-301. Arson. (not considered a violent crime under TCA 40-38-111(g))**

- (a) A person commits an offense who knowingly damages any structure 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.
 - (3)(A) Arson of a place of worship is a Class B felony.
 - (B) As used in this subdivision (b)(2), “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 such religious institution as the site of congregational services, rites or activities communally undertaken for the purpose of worship.

39-13-102. Aggravated assault.

- (a) A person commits aggravated assault who:
 - (1) Intentionally or knowingly commits an assault as defined in *§39-13-101 and:
 - (A) Causes serious bodily injury to another; or
 - (B) Uses or displays a deadly weapon; or
 - (2) Recklessly commits an assault as defined in § 39-13-101(a)(1), and:
 - (A) Causes serious bodily injury to another; or
 - (B) Uses or displays a deadly weapon.
- (b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect such child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in § 39-15-402.
- (c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against such individual or individuals.
- (d)(1) Aggravated assault under subdivision (a)(1) or subsection (b) or (c) is a Class C felony. Aggravated assault under subdivision (a)(2) is a Class D felony. The court shall consider as an enhancement factor at the time of sentencing that the victim of the aggravated assault was a law enforcement officer, firefighter, correctional

officer, youth services officer, probation and parole officer, or a state registered security officer/guard performing an official duty or an employee of the department of correction or the department of children's services; provided, that such officer or employee was performing an official duty. The court shall consider as an enhancement factor at the time of sentencing that the victim of the aggravated assault was an emergency medical or rescue worker, emergency medical technician, or paramedic, whether compensated or acting as a volunteer; provided that such technician or worker was performing an official duty.

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

***39-13-101. Assault. (not considered a violent crime under TCA 40-38-111(g))**

- (a) A person commits assault who:
 - (1) Intentionally, knowingly or recklessly causes bodily injury to another;
 - (2) Intentionally or knowingly causes another reasonably fear imminent bodily injury; or
 - (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.
- (b)
 - (1) Assault is a Class A misdemeanor unless the offense is committed under subdivision (a)(3), in which event assault is a Class B misdemeanor.
 - (2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(8), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars (\$200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars (\$200). Such additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the same to the general fund. All such fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to § 67-4-411.

39-15-402. Aggravated child abuse and neglect.

- (a) A person commits the offense of aggravated child abuse or aggravated child neglect who commits the offense of child abuse or neglect as defined in § 39-15-401 and:
 - (1) The act of abuse or neglect results in serious bodily injury to the child; or
 - (2) A deadly weapon is used to accomplish the act of abuse.
- (b) A violation of this section is a Class B felony; provided, however, that, if the abused or neglected child is six (6) years of age or less, the penalty is a Class A felony.
- (c) Nothing in this chapter shall be construed to mean a child is neglected, abused, or abused or neglected in an aggravated manner for the sole reason the child is being provided treatment by spiritual means through prayer alone in accordance with the tenets or practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical or surgical treatment.

39-15-401. Child abuse and neglect. (not considered a violent crime under TCA 40-38-111(g))

- (a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury or neglects such a child so as to adversely affect the child's health and welfare commits a Class A misdemeanor; provided, however, that if the abused or neglected child is six (6) years of age or less, the penalty is a Class D felony.
- (b)(1) Any juvenile court having reasonable cause to believe that a person is guilty of violating this section shall have the person brought before the court either by summons or warrant. No arrest warrant or summons shall be issued by any person authorized to issue such a warrant or summons nor shall criminal charges be instituted against a child's parent, guardian or custodian for a violation of subsection (a) based upon the allegation that unreasonable corporal punishment was administered to such child unless the affidavit of complaint also contains a copy of the report prepared by the law enforcement official who investigated the allegation or independent medical verification of injury to the child.
- (2)(A) If the person pleads not guilty, the juvenile judge shall have the power of a judge of the court of general sessions to bind the person over to the grand jury as in cases of misdemeanors under the criminal laws of this state. Upon being bound over the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and prosecutor need not be named on the indictment.
- (B) On a plea of not guilty, the juvenile court judge shall have the power to proceed to hear a case on its merits without the intervention of a jury if the person requests a

hearing in juvenile court and expressly waives, in writing, indictment, presentment, grand jury investigation and jury trial.

(C) If the person enters a plea of guilty, the juvenile court judge shall sentence the person under this section.

- (c) Except as expressly provided, the provisions of this section shall not be construed as repealing and provision of any other statute, but shall be supplementary thereto and cumulative thereof.
- (d) A violation of this section may be lesser included offense of any kind of homicide, statutory assault, or sexual offense if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101.

39-13-304. Aggravated kidnapping.

- (a) Aggravated kidnapping is false imprisonment, as defined in *§ 39-13-302, committed:
 - (1) To facilitate the commission of any felony or flight thereafter;
 - (2) To interfere with the performance of any governmental or political function;
 - (3) With the intent to inflict serious bodily injury on or to terrorize the victim or another;
 - (4) Where the victim suffers bodily injury; or
 - (5) While the defendant is in possession of a deadly weapon or threatens the use of a deadly weapon.
- (b)(1) Aggravated kidnapping is a Class B felony.
- (2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim's safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

***39-13-302. False imprisonment. (not considered a violent crime under TCA 40-38-111(g))**

- (a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.
- (b) False imprisonment is a Class A misdemeanor.

39-13-502. Aggravated rape.

- (a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
 - (1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;
 - (2) The defendant causes bodily injury to the victim;

- (3) The defendant is aided or abetted by one (1) or more other persons; and
 - (A) Force or coercion is used to accomplish the act; or
 - (B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.
- (b) Aggravated rape is a Class A felony.

39-13-402. Aggravated robbery.

- (a) Aggravated robbery is robbery as defined in *§ 39-13-401:
 - (1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon; or
 - (2) Where the victim suffers serious bodily injury.
- (b) Aggravated robbery is a Class B felony.

***39-13-401. Robbery. (not considered a violent crime under TCA 40-38-111(g))**

- (a) Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear.
- (b) Robbery is a Class C felony.

39-13-504. Aggravated sexual battery.

- (a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
 - (1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;
 - (2) The defendant causes bodily injury to the victim;
 - (3) The defendant is aided or abetted by one (1) or more other persons; and
 - (A) Force or coercion is used to accomplish the act; or
 - (B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
 - (4) The victim is less than thirteen (13) years of age.
- (b) Aggravated sexual battery is a Class B felony.

39-13-507. Limited spousal exclusion.

- (a) A person does not commit an offense under this part if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c).
- (b) (1) "Spouse rape" means the unlawful sexual penetration of one spouse by the other where:

- (A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;
 - (B) The defendant causes serious bodily injury to the victim; or
 - (C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.
- (2)(A) “Spousal rape,” as defined in subdivision (b)(1)(A) or (B), is a Class C felony.
 - (C) “Spousal rape,” as defined in subdivision (b)(1)(C) shall be punished pursuant to § 39-13-502 or § 39-13-503.
- (c) (1) “Aggravated spousal rape” is the unlawful sexual penetration of one spouse by the other where the defendant:
 - (A) Knowingly engaged in conduct that was especially cruel, vile and inhumane to the victim during commission of the offense; and either;
 - (B) Causes serious bodily injury to the victim; or
 - (C) Is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
 - (2) Aggravated spousal rape is a Class B felony.
- (d) (1) “Spousal sexual battery” means the unlawful sexual contact by one (1) spouse of another where:
 - (A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;
 - (B) The defendant causes serious bodily injury to the victim; or
 - (C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.
 - (2)(A) “Spousal sexual battery,” as defined in subdivision (c)(1)(A) or (B), is a Class D felony.
 - (B) “Spousal sexual battery,” as defined in subdivision (c)(1)(C) shall be punished pursuant to § 39-13-504 or § 39-13-505.

39-13-218. Aggravated vehicular homicide.

- (a) Aggravated vehicular homicide is vehicular homicide, as defined in *§ 39-13-213(a)(2), where:
 - (1) The defendant has two (2) or more prior convictions for:
 - (A) Driving under the influence of an intoxicant;
 - (B) Vehicular assault; or
 - (C) Any combination of such offenses;
 - (2) The defendant has one (1) or more prior convictions for the offense of vehicular homicide; or
 - (3) There was at the time of the offense twenty-hundredths of one percent (.20%), or more, by weight of alcohol in the defendant’s blood and the defendant has one (1) prior conviction for:
 - (A) Driving under the influence of an intoxicant; or

(B) Vehicular assault.

- (b) (1) As used in this section, unless the context otherwise requires, “prior conviction” means an offense for which the defendant was convicted prior to the commission of the instant vehicular homicide and includes convictions occurring prior to July 1, 1996.
- (2) “Prior conviction” includes convictions under the laws of any other state, government, or country which, if committed in this state, would have constituted one (1) of three (3) offenses enumerated in subdivision (a)(1) or (a)(2). In the event that a conviction from a jurisdiction other than Tennessee is not specifically named the same as one (1) of the three (3) offenses enumerated in subdivision (a)(1) or (a)(2), the elements of the offense in the other jurisdiction shall be used by the Tennessee court to determine if such offense constitutes one (1) of the prior convictions required by subsection (a).
- (c) If the defendant is charged with aggravated vehicular homicide, the indictment, in a separate count, shall specify, charge and give notice of the required prior conviction or convictions. If the defendant is convicted of vehicular homicide under § 39-13-213(a)(2), the jury shall then separately consider whether the defendant has the requisite number and types of prior offenses and/or level of blood alcohol concentration necessary to constitute the offense of aggravated vehicular homicide. If the jury convicts the defendant of aggravated vehicular homicide, the court shall pronounce judgment and sentence the defendant from within the felony classification set out in subsection (d).
- (d) Aggravated vehicular homicide is a Class A felony.

***39-13-213. Vehicular homicide. (not considered a violent crime under TCA 40-38-111(g))**

- (a) Vehicular homicide is the reckless killing of another by the operation of an automobile, airplane, motorboat or other motor vehicle:
- (1) As the proximate result of conduct creating a substantial risk of death or serious bodily injury to a person; or
- (2) As the proximate result of the driver’s intoxication as set forth in § 55-10-401. For the purposes of this section, “intoxication” includes alcohol intoxication as defined by § 55-10-408, drug intoxication, or both.
- (b) Vehicular homicide is a Class C felony, unless it is the proximate result of driver intoxication as set forth in subdivision (a)(2), in which case it is a Class B felony.
- (c) The court shall prohibit a defendant convicted of vehicular homicide from driving a vehicle in this state for a period of time not less than three (3) years nor more than ten (10) years.

39-13-404. Carjacking.

- (a) “Carjacking” is the intentional or knowing taking of a motor vehicle from the possession of another by use of:
 - (1) A deadly weapon; or
 - (2) Force or intimidation.
- (b) Carjacking is a Class B felony.

39-13-212. Criminally negligent homicide.

- (a) Criminally negligent conduct which results in death constitutes criminally negligent homicide.
- (b) Criminally negligent homicide is a Class E felony.

39-14-404. Especially aggravated burglary.

- (a) Especially aggravated burglary is:
 - (1) Burglary of a habitation or building other than a habitation; and
 - (2) Where the victim suffers serious bodily injury.
- (b) For the purposes of this section, “victim” means any person lawfully on the premises.
- (c) Especially aggravated burglary is a Class B felony.
- (d) Acts which constitute an offense under this section may be prosecuted under this section or any other applicable section, but not both.

39-13-305. Especially aggravated kidnapping.

- (a) Especially aggravated kidnapping is false imprisonment, as defined in *§ 39-13-302:
 - (1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon;
 - (2) Where the victim was under the age of thirteen (13) at the time of the removal or confinement;
 - (3) Committed to hold the victim for ransom or reward, or as a shield or hostage; or
 - (4) Where the victim suffers serious bodily injury.
- (b) (1) Especially aggravated kidnapping is a Class A felony.
 - (2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim’s safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

***39-13-302. False imprisonment. (not considered a violent crime under TCA 40-38-111(g))**

- (a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.
- (b) False imprisonment is a Class A misdemeanor.

39-13-403. Especially aggravated robbery.

- (a) Especially aggravated robbery is robbery as defined in *§ 39-13-401:
 - (1) Accomplished with a deadly weapon; and
 - (2) Where the victim suffers serious bodily injury.
- (b) Especially aggravated robbery is a Class A felony.

***39-13-401. Robbery. (not considered a violent crime under TCA 40-38-111-(g))**

- (a) Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear.
- (b) Robbery is a Class C felony.

39-13-202. First degree murder.

- (a) First degree murder is:
 - (1) A premeditated and intentional killing of another;
 - (2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping aggravated child abuse, aggravated child neglect or aircraft piracy; or
 - (3) A killing of another committed as the result of the unlawful throwing, placing or discharging of a destructive device or bomb.
- (b) No culpable mental state is required for conviction under subdivision (a)(2) or (a)(3) except the intent to commit the enumerated offenses or acts in such subdivisions.
- (c) A person convicted of first degree murder shall be punished by:
 - (1) Death;
 - (2) Imprisonment for life without possibility of parole; or
 - (3) Imprisonment for life.
- (d) As used in subdivision (a)(1) "premeditation" is an act done after the exercise of reflection and judgment. "Premeditation" means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill pre-exist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.

39-15-302. Incest.

- (a) A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing such person to be, without regard to legitimacy:
 - (1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or
 - (2) The person's brother or sister of the whole or half-blood or by adoption.
- (b) Incest is a Class C felony.

39-13-303. Kidnapping.

- (a) Kidnapping is false imprisonment as defined in *§ 39-13-302:
 - (1) Under circumstances exposing the other person to substantial risk of bodily injury; or
 - (2) Where the confinement of another is in a condition of involuntary servitude.
- (b) Kidnapping is a Class C felony.

39-13-302. False imprisonment. (not considered a violent crime under TCA 40-38-111(g))

- (a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.
- (b) False imprisonment is a Class A misdemeanor.

39-13-503. Rape.

- (a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:
 - (1) Force or coercion is used to accomplish the act;
 - (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
 - (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
 - (4) The sexual penetration is accomplished by fraud.
- (b) Rape is a Class B felony.
- (c) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

39-13-522. Rape of a child.

- (a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if such victim is less than thirteen (13) years of age.
- (b) Rape of child is a Class A felony.
- (c) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

39-13-215. Reckless homicide.

- (a) Reckless homicide is a reckless killing of another.
- (b) Reckless homicide is a Class D felony.

39-13-210. Second degree murder.

- (1) A knowing killing of another; or
- (2) A killing of another which results from the unlawful distribution of any Schedule I or Schedule II drug when such drug is the proximate cause of the death of the user.
- (b) Second degree murder is a Class A felony.

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

- (a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances:
 - (1) The victim was, at the time of the offense, thirteen (13) years of age or older but less than eighteen (18) years of age; and either
 - (A) The defendant had, at the time of the offense, supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional or occupational status and used such power to accomplish the sexual contact; or
 - (B) The defendant had, at the time of the offense, parental or custodial authority over the victim and used such authority to accomplish the sexual contact
- (b) Sexual battery by an authority figure is a Class C felony.

39-13-505. Sexual battery.

- (a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
 - (1) Force or coercion is used to accomplish the act;

- (2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;
 - (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
 - (4) The sexual contact is accomplished by fraud.
- (b) As used in this section, “coercion” means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.
- (c) Sexual battery is a Class E felony.
- (d) When imposing sentence under the provisions of title 40, chapter 35, for a conviction under this section, the court shall consider as an enhancement factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance.

39-17-315. Stalking.

- (a) (1) A person commits the offense of stalking who intentionally and repeatedly follows or harasses another person in such a manner as would cause that person to be in reasonable fear of being assaulted, suffering bodily injury or death.
- (2) As used in this section:
- (A) “Follows” means maintaining a visual or physical proximity over a period of time to a specific person in such a manner as would cause a reasonable person to have a fear of an assault, bodily injury or death;
 - (B) “Harasses” means a course of conduct directed at a specific person which would cause a reasonable person to fear an assault, bodily injury, or death, including, but not limited to, verbal threats, written threats, vandalism, or unconsented-to physical contact; and
 - (C) “Repeatedly” means on two (2) or more separate occasions.
- (b) (1) Stalking is a Class A misdemeanor.
- (2) A second or subsequent violation of subsection (a) occurring within seven (7) years of the prior conviction is a Class E felony. A second or subsequent violation of subsection (a) involving the same victim and occurring within seven (7) years of the prior conviction is a Class C felony.
- (c) The provisions of this section shall not be construed to prohibit following another person during the course of a lawful business activity.

39-13-506. Statutory rape.

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

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

39-13-106. Vehicular assault.

- (a) A person commits vehicular assault who, as the proximate result of the person's intoxication as set forth in § 55-10-401, recklessly causes serious bodily injury to another person by the operation of a motor vehicle. For the purposes of this section, "intoxication" includes alcohol intoxication as defined by § 55-10-408, drug intoxication, or both.
- (b) A violation of this section is a Class D felony.
- (c) Upon the conviction of a person for the first offense of vehicular assault, the court shall prohibit such convicted person from driving a vehicle in this state for a period of one (1) year. For the second such conviction, the court shall prohibit such convicted person from driving a vehicle in this state for a period of two (2) years. For the third such conviction, the court shall prohibit such convicted person from driving a vehicle in this state for a period of three (3) years. For fourth and subsequent convictions, the court shall prohibit the person from driving a vehicle in this state for a period of five (5) years.

39-13-211. Voluntary manslaughter.

- (a) Voluntary manslaughter is the intentional or knowing killing of another in a state of passion produced by adequate provocation sufficient to lead a reasonable person to act in an irrational manner.
- (b) Voluntary manslaughter is a Class C felony.