



HUMAN RIGHTS *for* KIDS

Tennessee State Ratings Report

Human Rights for Kids (HRFK) annual state ratings process tracks the presence or absence of 12 categories of state statutes that are critical to protecting the human rights of children in the criminal justice system. It is important to note that these 12 categories are not exhaustive of all the important legislation needed to safeguard children's human rights. Furthermore, the ratings do not assess the effectiveness or implementation of these laws in the state. The purpose of the annual state ratings process is to document policies enacted by state legislatures, motivate legislators and policy advocates, and bring attention to the need to prioritize children in criminal justice reform and human rights advocacy. For each category, we track whether a state has a statute consistent with the described policy.

TOTAL POINTS:	2 out of 12
TIER RATING:	4

1. Due Process Protections at Point of Entry for Kids

No Credit: 0/1

There are no statutory protections in place requiring children to consult with their parents, legal guardians, or legal counsel prior to waiving their Miranda Rights or being subject to a custodial interrogation for proceedings in either juvenile or adult court.

2. Set a Minimum Age of at Least 10 for Juvenile Court

No Credit: 0/1

Pursuant to §37-1-102, there is no minimum age for when a child may be adjudicated delinquent in juvenile court. See Category 3 below for details.

3. Set a Maximum Age of at Least 17 for Juvenile Court

Full Credit: 1/1

Pursuant to §37-1-102, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

§37-1-102 - Chapter and part definitions

(5) "Child" means: (A) A person under eighteen (18) years of age;

(10) "Delinquent act" means an act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under subdivision

(b)(23)(A)(iii) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony;

(11) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation;

4. Ban Prosecuting Kids Under 14 as Adults AND Require a Child Status Hearings for All Kids 14+ Before Proceedings in Adult Court

No Credit: 0/1

Pursuant to §37-1-134, a child less than 14 years of age must be prosecuted as an adult if charged with murder or attempted murder. Additionally, a child between the ages of 14 and 17 who is charged with certain specified offenses must be prosecuted as an adult. Therefore, Tennessee receives no credit.

§37-1-134 - Transfer from juvenile court

(a) After a petition has been filed alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, the court, before hearing the petition on the merits, may transfer the child to the sheriff of the county to be held according to law and to be dealt with as

an adult in the criminal court of competent jurisdiction. The disposition of the child shall be as if the child were an adult if:

(1) (A) The child was:

(i) Less than fourteen (14) years of age at the time of the alleged conduct and charged with first degree murder or second degree murder or attempted first or second degree murder;

(ii) Fourteen (14) years of age or more but less than seventeen (17) years of age at the time of the alleged conduct and charged with the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, aggravated burglary, especially aggravated burglary, kidnapping, aggravated kidnapping, especially aggravated kidnapping, commission of an act of terrorism, carjacking, or an attempt to commit any such offenses;

(iii) Sixteen (16) years of age or more at the time of the alleged conduct and charged with the offense of robbery or attempt to commit robbery; or

(iv) Seventeen (17) years of age or more at the time of the alleged conduct.

(B) The district attorney general shall not seek, nor shall any child transferred under this section receive, a sentence of death for the offense for which the child was transferred;

(2) A hearing on whether the transfer should be made is held in conformity with §§ 37-1-124, 37-1-126 and 37-1-127;

(3) Reasonable notice in writing of the time, place and purpose of the hearing is given to the child and the child's parents, guardian or other custodian at least fourteen (14) days prior to the hearing; and

(4) The court finds that there is probable cause to believe that:

(A) The child committed the delinquent act as alleged;

(B) The child is not committable to an institution for the developmentally disabled or mentally ill; and

(C) The interests of the community require that the child be put under legal restraint or discipline. 1 (b) In making the determination required by subsection (a), the court shall consider, among other matters:

(1) The extent and nature of the child's prior delinquency records;

(2) The nature of past treatment efforts and the nature of the child's response thereto;

(3) Whether the offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(4) Whether the offense was committed in an aggressive and premeditated manner;

(5) The possible rehabilitation of the child by use of procedures, services and facilities currently available to the court in this state; and

(6) Whether the child's conduct would be a criminal gang offense, as defined in § 40-35-121, if committed by an adult.

(c) The transfer pursuant to subsection (a) terminates jurisdiction of the juvenile court with respect to any and all delinquent acts with which the child may then or thereafter be charged, and the child shall thereafter be dealt with as an adult as to

all pending and subsequent criminal charges; provided, that if a child transferred pursuant to this section is acquitted in criminal court on the charge or charges resulting in such transfer, or if such charge or charges are dismissed in such court, this subsection (c) shall not apply and the juvenile court shall retain jurisdiction over such child. If a child is in the legal custody of the department at the time of transfer, such custody shall terminate at the transfer hearing, except that if a child is already committed to the department, the court may determine if it is in the best interest of the child to remain in the legal custody of the department until conviction occurs. In any case, legal custody by the department shall terminate upon any conviction in adult criminal court. If there is no conviction and charges so transferred are dismissed or acquittal occurs, the presiding trial judge shall notify the transferring juvenile court judge of such dismissal or acquittal so that the juvenile court may at its discretion set a hearing to ascertain status of the child as to the department's custody.

(d) If a person eighteen (18) years of age or older is to be charged with an offense that was alleged to have been committed prior to such person's eighteenth birthday, the petition shall be brought in the juvenile court that would have had jurisdiction at the time of the offense. The juvenile court shall either adjudicate the case under its continuing jurisdiction authority under § 37-1-102(b)(4)(B) and (C) or undertake transfer proceedings consistent with this section.

(e) No child, either before or after reaching eighteen (18) years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in subsection (a).

(f) (1) Statements made by the child at the juvenile court hearing under this section are not admissible against the child, over objection, in the criminal proceedings following the transfer. In any county in which, on July 1, 1996, the general sessions court or juvenile court makes audio recordings, the court shall make or cause to be made an audio recording of each transfer hearing conducted pursuant to this section. Such recording shall include all proceedings in open court and such other proceedings as the judge may direct and shall be preserved as a part of the record of the hearing. The juvenile who is the subject of the hearing may, at the juvenile's own expense, transcribe the recording of the hearing and a transcript so prepared may be used for the purpose of an appeal as provided by law. In all other counties, transfer hearings shall be recorded using the procedure provided in title 40, chapter 14, part 3.

(g) If the case is not transferred, the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also the judge, the judge likewise is disqualified from presiding in the prosecution.

5. Ban Mandatory Minimum Sentencing for Kids

No Credit: 0/1

There is no statutory provision allowing judges to depart from any mandatory minimum sentence once a child has been convicted in adult criminal court.

6. Ban Felony-Murder Rule for Kids

No Credit: 0/1

Pursuant to §39-13-202, a child may be convicted under the felony murder rule.

§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, physical abuse in violation of § 71-6-119, aggravated neglect of an elderly or vulnerable adult in violation of §39-15-508, aggravated child abuse, aggravated child neglect, rape of a child, aggravated rape of a child 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 those subdivisions.

7. Ban Life Without Parole Sentences for Kids

No Credit: 0/1

Pursuant to §39-13-202, a child may be sentenced to life without parole. Therefore, Tennessee receives no credit.

§39-13-202 - First degree murder

(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.

8. Release Safety Valve for Kids Serving Lengthy Prison Sentences

No Credit: 0/1

There is no statutory provision allowing judges or the parole board to review the sentences of every child convicted in criminal court after a reasonable period of incarceration.

9. Ban Solitary Confinement for Kids

Partial Credit: .5/1

Pursuant to §37-1-116 and §37-5-214, solitary confinement is prohibited for children in juvenile detention facilities, but such protections are not in place for children in adult facilities where the use of solitary confinement as punishment is authorized by statute. Therefore, Tennessee receives partial credit.

§37-1-116 - Place of detention - Escape or attempted escape - Shelter care

(I) Seclusion must not be used for discipline, punishment, administrative convenience, retaliation, staffing shortages, or any reason other than a temporary response to behavior that threatens immediate harm to a youth or others. This subsection (*l*) applies to any child detained in any facility pursuant to § 37-1-114, either pre-adjudication or post-adjudication. Following a period of seclusion, the facility administrator may review the seclusion and authorize an additional two-hour period of seclusion if appropriate. The facility administrator shall not authorize more than two (2) subsequent, consecutive periods of seclusion or more than six (6) total hours of seclusion within a twenty-four-hour period. The department may, by rule or policy, provide alternative options for a child who cannot safely rejoin the rest of the resident population following the maximum period of seclusion authorized by this subsection (*l*).

37-5-214. Use of seclusion at juvenile detention facilities.

(a) As used in this section:

(1) "Seclusion" means the involuntary segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to a locked unit or ward where other children may be seen or heard but are separated from the child, but does not include:

(A) The segregation of a child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines;

(B) Voluntary time-out involving the voluntary separation of an individual child from others, and where the child is allowed to end the separation at will; or

(C) Temporarily securing children in their rooms during regularly scheduled times, such as periods set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population or within the child's assigned living area; and

(2) "Temporary" means for no more than two (2) hours.

(b) This section applies to juvenile detention facilities approved, certified, or licensed by the department of children's services, including youth development centers.

(c) Seclusion shall not be used for discipline, punishment, administrative convenience, retaliation, staffing shortages, or any reason other than a temporary response to behavior that threatens immediate harm to a youth or others. Following

a period of seclusion, the facility administrator may review the seclusion and authorize an additional two hour period of seclusion if appropriate. The facility administrator shall not authorize more than two (2) subsequent, consecutive periods of seclusion or more than six (6) total hours of seclusion within a twenty-four-hour period. The department may, by rule or policy, provide alternative options for a child who cannot safely rejoin the rest of the resident population following the maximum period of seclusion authorized by this subsection (c).

§41-21-402 - Solitary confinement

(a) Any inmate who neglects or refuses to perform the labor assigned, willfully injures any of the materials, implements or tools, engages in conversation with any other inmate or in any other manner violates any of the regulations of the penitentiary, may be punished by solitary confinement for a period not exceeding thirty (30) days for each offense, at the discretion of the warden or the person acting in the warden's place.

(b) Every inmate punished by solitary confinement shall be shut up in a cell and fed with bread and water only during solitary confinement, unless the physician certifies to the warden that the health of the inmate requires other diet.

§41-3-102 - Punishment of prisoners

(a) Any prisoner refusing to work or becoming disorderly may be confined in solitary confinement and fed on bread and water or subjected to such other punishment, not inconsistent with humanity, as may be deemed necessary by the commissioners for the government and control of the prisoners. (b) Prisoners refusing to work or while in solitary confinement shall receive no credit for the time so spent.

§41-21-403 - Report of inmates in solitary

It is the duty of the warden to report immediately to the commissioner of correction the name of each person committed to solitary confinement, with a statement of the nature of the person's offense, the date of confinement and the period for which committed, which report shall be filed and recorded.

10. Ban Incarcerating Kids with Adults

No Credit: 0/1

Pursuant to §37-1-116 and §37-1-134, children may be held in adult jails or prisons.

§37-1-134 - Transfer from juvenile court

(h) After a child has been sentenced to an adult institution, the department of correction may file a petition requesting the committing court to allow the department to transfer the defendant to an institution for juvenile delinquents administered by the department of children's services. Upon the approval by such court, the defendant may be transferred by the department of correction to a

child-caring institution to be held until the defendant's eighteenth birthday. At the defendant's eighteenth birthday, the defendant may be transferred to an adult institution if there is time remaining on the defendant's term. If the term expires prior to the eighteenth birthday, the defendant shall be released. Any child sentenced by a committing court pursuant to this section shall, for the purpose of parole, be treated as if such child were an adult. The provisions of this section relative to housing of juveniles who have obtained the age of eighteen (18) shall not be affected by subsections (i), (j) and (k).

(i) When a child transferred under this section is detained, the juvenile court may, in its discretion, order confinement in a local juvenile detention facility, or a juvenile detention facility with which it contracts or an adult detention facility separate and removed from adult detainees. The court having adult criminal jurisdiction may thereafter order detention in an adult detention facility separate and removed from adult detainees; provided, however, that during the period while such child is detained separately from adult detainees, such child shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult detainees who are charged with similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(j) Any person, who was transferred under this section and who was less than sixteen (16) years of age at the time of the offense and who is subsequently convicted and committed, shall be housed in a juvenile correctional facility until such person reaches sixteen (16) years of age, at which time such person may be transferred upon the order of the committing court to an adult facility. Any person committed to an adult facility under this section shall be housed separate and removed from adult inmates. In exercising commissioner's discretion under § 41-1-403 to determine the institutional location of any such person, the commissioner of correction shall take into consideration the proximity of the institution to the person's home. However, during any period while such person is confined separately from adult inmates within such regional facility, such person shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(k) Any person who is transferred under this section and who was sixteen (16) years of age or older at the time of the offense and is subsequently convicted and committed shall be housed in a juvenile correctional facility unless the committing court orders commitment to an adult facility. Any person committed to an adult

facility under this section shall be housed, separate and removed from adult inmates. In exercising the commissioner's discretion under § 41-1-403 to determine the institutional location of any such person, the commissioner of correction shall take into consideration the proximity of the institution to the person's home. However, during any period while such person is confined separately from adult inmates within such regional facility, such person shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

§37-1-116 - Place of detention - Escape or attempted escape - Shelter care

(a) A child alleged to be delinquent or unruly may be detained only in:

- (1) A licensed foster home or a home approved by the court;
- (2) A facility operated by a licensed child care agency;
- (3) A detention home or center for delinquent children that is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or
- (4) Subject to subsection (e), any other suitable place or facility designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if:

(A) Other facilities in subdivision (a)(3) are not available;

(B) The detention is in a room separate and removed from those for adults; and

(C) It appears to the satisfaction of the court that public safety and protection reasonably require detention, and it so orders.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under eighteen (18) years of age is received at the facility, and shall bring such person before the court upon request or deliver such person to a detention or shelter care facility designated by the court.

(c) If a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

(d) A child alleged to be dependent or neglected may be detained or placed in shelter care only in the facilities stated in subdivisions (a)(1), (2) and (4), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

(e) No child may be detained or otherwise placed in any jail or other facility for the detention of adults, except as provided in subsections (c) and (h).

(f) A county may contract with juvenile courts in other counties, other public authorities, or private agencies to place children in any of the facilities listed in

subdivisions (a)(1)-(3) and in the first sentence of subdivision (a)(4). The payment for such placements shall be according to per diem allowances established jointly by the department of children's services and the comptroller of the treasury, or as agreed upon between the county and the juvenile court or other authority or agency operating the facility. The cost allowances established jointly by the department and the comptroller of the treasury shall take into account the actual operating costs of the facility, the costs of any special programs offered by the facility, and the cost of any transportation provided by the facility. Any and all such 1 costs of placement and transportation may be assessed against the parents or other persons legally obligated to care for and support the child as provided in § 37-1-150(d).

(g) To the extent necessary to comply with subsection (e), counties may expend funds received from the state for the purpose of improving juvenile court services or providing community alternatives to detention to pay for the alternative placement and transportation services described in subsection (f), and to develop other alternatives to jail for children, including emergency foster homes, runaway/emergency shelters, juvenile summons, crisis intervention, home detention, attendant care and other programs.

(h) A juvenile may be temporarily detained for as short a time as feasible, not to exceed forty-eight (48) hours, in an adult jail or lockup, if:

(1) The juvenile is accused of a serious crime against persons, including criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery and extortion accompanied by threats of violence;

(2) The county has a low population density not to exceed thirty-five (35) persons per square mile;

(3) The facility and program have received prior certification by the Tennessee corrections institute as providing detention and treatment with total sight and sound separation from adult detainees and prisoners, including no access by trustees;

(4) There is no juvenile court or other public authority, or private agency as provided in subsection (f), able and willing to contract for the placement of the juvenile; and

(5) A determination is made that there is no existing acceptable alternative placement available for the juvenile.

(i) (1) Notwithstanding the provisions of this section to the contrary, in any facility that meets the following requisites of separateness, juveniles who meet the detention criteria of § 37-1-114(c) may be held in a juvenile detention facility that is in the same building or on the same grounds as an adult jail or lockup; provided, that no juvenile facility constructed or developed after January 1, 1995, may be located in the same building or directly connected to any adult jail or lockup facility complex:

(A) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;

(B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities;

(C) Separate juvenile and adult staff, including management, security staff and direct care staff, such as recreational, educational and counseling. Specialized services staff, such as cooks, bookkeepers and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both; and

(D) In the event that state standards or licensing requirements for secure juvenile detention facilities are established, the juvenile facility must meet the standards and be licensed or approved as appropriate.

(2) In determining whether the criteria set out in this subsection (i) are met, the following factors will serve to enhance the separateness of juvenile and adult facilities:

(A) Juvenile staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the youth serving operations. Juvenile staff are specially trained in the handling of juveniles and the special problems associated with this group;

(B) A separate juvenile operations manual, with written procedures for staff and agency reference, specifies the function and operation of the juvenile program;

(C) There is minimal sharing between the facilities of public lobbies or office/support space for staff;

(D) Juveniles do not share direct service or access space with adult offenders within the facilities, including entrance to and exits from the facilities. All juvenile facility intake, booking and admission processes take place in a separate area and are under the direction of juvenile facility staff. Secure juvenile entrances (sally ports, waiting areas) are independently controlled by juvenile staff and separated from adult entrances. Public entrances, lobbies and waiting areas for the juvenile detention program are also controlled by juvenile staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces and program/service spaces;

(E) The space available for juvenile living, sleeping and the conduct of juvenile programs conforms to the requirements for secure juvenile detention specified by prevailing case law, prevailing professional standards of care, and by state code; and

(F) The facility is formally recognized as a juvenile detention center by the state agency responsible for monitoring, review or certification of juvenile detention facilities.

(j) (1) Any juvenile who:

(A) Is alleged or adjudicated to be delinquent;

(B) Is confined to a secure detention or correctional facility designated, operated or approved by the court; and

(C) Absconds or attempts to abscond from such facility;

(2) Any juvenile who: may be charged with the offense of escape or attempted escape and a petition alleging such offense may be filed with the juvenile court of the

county in which the alleged offense occurred. If the allegations of the petition are sustained, then the court may make any order of disposition authorized by § 37-1-131.

3 (A) Is alleged or adjudicated to be delinquent;

(B) Has been placed by the court in a secure detention or correctional facility designated, operated or approved by the court;

(C) Is being transported to or from such facility; and

(D) Absconds or attempts to abscond from the custody of the person responsible for such transportation;

(3) (A) Any juvenile may be charged with the offense of escape or attempted escape and a petition alleging the offense may be filed with the juvenile court of the county in which the alleged offense occurred who:

(i) Is adjudicated to be delinquent;

(ii) Is placed in a place of detention other than a secure detention facility, as specified in subsection (a); and

(iii) Absconds or attempts to abscond from such facility.

(B) Escape or attempted escape from a facility listed in subdivisions (a)(1)-(3) constitutes an offense that, if committed by an adult, would be a misdemeanor. If the allegations of the petition are sustained, then the court may make any order of disposition authorized by § 37-1-131.

(4) Upon an escape by a juvenile who is alleged or adjudicated to be delinquent by virtue of an act which would be a felony if committed by an adult and who is confined to a secure detention or correctional facility designated, operated or approved by the court, the appropriate facility or departmental official shall immediately report the escape to the chief law enforcement officer of the county in which the facility is located. The report shall include the facts of the escape, the time when it occurred and the circumstances under which it occurred, together with the particular description of the escapee, the escapee's age, size, complexion, race, color of hair and eyes, and from what county committed, for what offense, and when.

(k) (1) Notwithstanding any provision of law to the contrary, no child alleged to be delinquent and meeting any of the criteria under this subsection (k) nor any child committed to the department of children's services as a delinquent child and meeting any of the criteria under this subsection (k) shall be held in shelter care authorized by this section with a child alleged to be dependent or neglected unless the following are satisfied:

(A) There is total separation between facility spatial areas such that there could be no haphazard or accidental contact between a child alleged to be delinquent, or committed may be charged with the offense of escape or attempted escape and a petition alleging such offense may be filed with the juvenile court of the county in which the alleged offense occurred. If the allegations of the petition are sustained, then the court may make any order of disposition authorized by § 37-1-131. 4

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meets the criteria of this subsection (k) and a child alleged to be dependent or neglected; and

(B) There is total separation in all program activities between children alleged to be delinquent, or committed as delinquent, who meet the criteria of this subsection (k) and children alleged to be dependent or neglected, including all program activities listed in subdivision (i)(1)(B) and total separation of any staff for such children as listed in subdivision (i)(1)(C).

(2) The criteria to be used under this subsection (k), together with an allegation of delinquency or commitment to the department as delinquent, are:

(A) The child has been found to be delinquent or is alleged to be delinquent based upon a felony offense constituting a crime against a person or persons;

(B) The child has prior commitments to the department as a result of having committed a felony offense or offenses that constitute a crime against a person or persons;

(C) The child has been found to be delinquent or is alleged to be delinquent based upon a felony drug offense;

(D) The child has prior commitments to the department as a result of having committed a felony drug offense; or

(E) The child has a history of prior convictions for felony offenses that constitute crimes against persons or felony drug offenses, even though the child has never been committed to the department.

§41-4-121 - Safekeeping of prisoners - Sufficient jails

(a) (1) The sheriff has the authority, when the jail of the county is insufficient for the safekeeping of a prisoner, to convey the prisoner to the nearest sufficient jail in the state or, if the prisoner is a juvenile, to the nearest sufficient juvenile detention facility in the state.

(2) In all cases where it is shown to the committing court that the jail of the county in which the commitment should be made is insufficient for the safekeeping of the prisoner, the court may order commitment of the prisoner to the nearest sufficient county jail or, if the prisoner is a juvenile, to the nearest sufficient juvenile detention facility.

(3) In all cases where the jail in which a prisoner is confined becomes insufficient for any cause, any circuit, criminal, or general sessions judge, upon the application of the sheriff and proof of the fact, may order the prisoner to be removed to the nearest sufficient jail or, if the prisoner is a juvenile, to the nearest sufficient juvenile detention facility.

(b) (1) An order issued under this section shall be reviewed by the issuing court at least once every thirty (30) days. In conducting the review, the court shall determine whether the order needs to remain in place, be terminated, or be modified to place conditions on the order. In evaluating whether the order needs to remain in place, the court shall consider the jail or juvenile detention facilities' obligations relative to the use of restrictive housing. If the order is terminated, the prisoner shall be returned to the county jail or juvenile detention facility, as appropriate.

(2) Nothing in this section authorizes a non-adjudicated juvenile, or a non-adjudicated juvenile who has been transferred to criminal court in accordance with title 37, chapter 1, to be committed or removed to the state penitentiary or a branch prison for safekeeping.

11. Ban Mandatory Post-Release Lifetime Supervision

Partial Credit: .5/1

While many formerly incarcerated children can receive a final discharge from parole pursuant to §40-28-609, children on lifetime parole are ineligible for discharge. Therefore, Tennessee receives partial credit.

§40-28-609 - Final discharge of parolee

(a) Whenever the director is satisfied that a parolee has kept the conditions of parole in a satisfactory manner, the director shall issue to the parolee a certificate of final discharge. This final discharge from parole will be granted only after a parolee has completed the maximum sentence imposed, less diminution allowed for good and honor time and incentive time and sentence credits earned and retained. If a parolee is not eligible for a certificate of discharge because of a pending violation, parole will expire at the end of the maximum sentence less diminution for good and honor time, incentive time and sentence credits earned and retained, plus delinquent time.

(b) This is in no way to be construed as permitting a discharge from parole for parolees with a life sentence.

12. Voting Rights Restoration

No Credit: 0/1

Pursuant to §40-29-105, a formerly incarcerated child can have their voting rights restored; however, children convicted of murder, rape, treason, or voting fraud are permanently disenfranchised. Therefore, Tennessee receives no credit.

§40-29-105 - Felons convicted of infamous crimes - Dates

(a) The provisions and procedures provided for in §§ 40-29-101 -- 40-29-104 shall apply to all persons convicted of an infamous crime after July 1, 1986, but before July 1, 1996.

(b) For all persons convicted of infamous crimes after July 1, 1986, but before July 1, 1996, the following procedures shall apply:

(1) A person rendered infamous or deprived of the rights of citizenship by the judgment of any state or federal court may have full rights of citizenship restored upon:

(A) Receiving a pardon, except where the pardon contains special conditions pertaining to the right to suffrage;

(B) Service or expiration of the maximum sentence imposed for the infamous crime; or

(C) Being granted final release from incarceration or supervision by the board of probation and parole, or county correction authority;

(2) A person rendered infamous after July 1, 1986, by virtue of being convicted of one (1) of the following crimes shall never be eligible to register and vote in this state:

(A) First degree murder;

(B) Aggravated rape;

(C) Treason; or

(D) Voter fraud.

(3) Any person eligible for restoration of citizenship pursuant to subdivision (b)(1) may request, and then shall be issued, a certificate of restoration upon a form prescribed by the coordinator of elections, by:

(A) The pardoning authority; or

(B) An agent or officer of the supervising or incarcerating authority;

(4) Any authority issuing a certificate of restoration shall forward a copy of the certificate to the coordinator of elections; (5) Any person issued a certificate of restoration shall submit, to the administrator of elections of the county in which the person is eligible to vote, the certificate and upon verification of the certificate with the coordinator of elections be issued a voter registration card entitling the person to vote; and

(6) A certificate of restoration issued pursuant to subdivision (b)(3) shall be sufficient proof to the administrator of elections that the person fulfills the requirements provided in subdivision (b)(1); however, before allowing a person convicted of an infamous crime to become a registered voter, it is the duty of the administrator of elections in each county to 1 verify with the coordinator of elections that the person is eligible to register under this section.

(c) The following procedure shall apply to a person rendered infamous by virtue of being convicted of a felony on or after July 1, 1996:

(1) Except as provided in subdivision (c)(2)(B), a person rendered infamous or whose rights of citizenship have been deprived by the judgment of a state or federal court may seek restoration of full rights of citizenship by petitioning the circuit court of the county where the petitioner resides or where the conviction for the infamous crime occurred;

(2) (A) A person receiving a pardon that restores full rights of citizenship may petition for restoration immediately upon receiving the pardon. However, the court shall not have the authority or jurisdiction to alter, delete or render void special conditions pertaining to the right of suffrage that may be contained in the pardon;

(B) A person convicted of an infamous crime may petition for restoration upon the expiration of the maximum sentence imposed by the court for the infamous crime; provided, that a person convicted of murder, rape, treason or voter fraud shall never be eligible to register and vote in this state;

(3) The petition shall set forth the basis for the petitioner's eligibility for restoration and shall state the reasons the petitioner believes that petitioner's full citizenship rights should be restored. The petition shall be accompanied by the certified records, statements and other documents or information necessary to demonstrate to the court that the petitioner is both eligible for and merits having full rights of citizenship restored. The court may require any additional proof as it deems necessary to reach a just decision on the petition. There is a presumption that a petition filed pursuant to this subsection (c) shall be granted and that the full citizenship rights of the petitioner shall be restored. This presumption may only be overcome upon proof by a preponderance of the evidence that either the petitioner is not eligible for restoration or there is otherwise good cause to deny the petition;

(4) (A) Prior to acting on any petition filed pursuant to this subsection (c), the court shall notify the district attorney general in whose county the petitioner resides and the district attorney general of the county in which the conviction occurred that a petition for restoration of citizenship has been filed by the petitioner. The notice shall be sent at least thirty (30) days prior to any hearing on or disposition of the petition. Each district attorney general so notified may object to the restoration of the petitioner's citizenship rights either in person or in writing; (B) If the petitioner was rendered infamous or deprived of citizenship rights by judgment of a federal court, the circuit court shall give the notice required in subdivision (c)(2)(A) to the United States attorney and the district attorney general in whose district the petitioner is currently residing. Each such official shall have the same right to object to the petition as is provided in subdivision (c)(2)(A);

(5) If, upon the face of the petition or after conducting a hearing, the court finds that the petitioner's full citizenship rights should be restored, it shall so order and send a copy of the order to the state coordinator of elections;

(6) All costs for a proceeding under this subsection (c) to restore a person's citizenship rights shall be paid by the petitioner unless the court specifically orders otherwise; and

(7) Any person whose citizenship rights have been restored by order of the court pursuant to this subsection (c) shall submit a certified copy of the order to the administrator of elections of the county in which the person is eligible to vote. The administrator of elections shall verify with the coordinator of elections that the order was issued and, upon receiving the verification, shall issue the person a voter registration card entitling the person to vote.

§2-19-143 - Suffrage for persons convicted of infamous crimes

(1) No person who has been convicted of an infamous crime, as defined by § 40-20-112, in this state shall be permitted to register to vote or vote at any election unless such person has been pardoned by the governor, or the person's full rights of

citizenship have otherwise been restored as prescribed by law. However, the governor may attach to any such pardon a special condition that such person shall not have the right of suffrage until a date certain in the future, or until the expiration of the pardoned sentence, whichever period of time is less.

(2) No person who has been convicted in federal court of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election unless such person has been pardoned or restored to the full rights of citizenship by the president of the United States, or the person's full rights of citizenship have otherwise been restored in accordance with federal law, or the law of this state.

(3) No person who has been convicted in another state of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election in this state unless such person has been pardoned or restored to the rights of citizenship by the governor or other appropriate authority of such other state, or the person's full rights of citizenship have otherwise been restored in accordance with the laws of such other state, or the law of this state.

(4) The provisions of this section, relative to the forfeiture and restoration of the right of suffrage for those persons convicted of infamous crimes, shall also apply to those persons convicted of crimes prior to May 18, 1981, which are infamous crimes after May 18, 1981.

§40-29-202 - Application for voter registration card

(a) A person rendered infamous and deprived of the right of suffrage by the judgment of any state or federal court is eligible to apply for a voter registration card and have the right of suffrage restored upon:

(1) Receiving a pardon, except where the pardon contains special conditions pertaining to the right of suffrage;

(2) The discharge from custody by reason of service or expiration of the maximum sentence imposed by the court for the infamous crime; or

(3) Being granted a certificate of final discharge from supervision by the board of probation and parole pursuant to § 40-28-105, or any equivalent discharge by another state, the federal government, or county correction authority.

(b) Notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person:

(1) Has paid all restitution to the victim or victims of the offense ordered by the court as part of the sentence; and

(2) Beginning September 1, 2010, notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person has paid all court costs assessed against the person at the conclusion of the person's trial, except where the court has made a finding at an evidentiary hearing that the applicant is indigent at the time of application.

(c) Notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person is current in all child support obligations.