

**STATE OF TENNESSEE**  
OFFICE OF THE  
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September 29, 2003

Opinion No. 03-127

Violation of Lifetime Supervision Sentence

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**QUESTION**

What is the proper court within which to bring an action for violation of a lifetime community supervision sentence pursuant to Tenn. Code Ann. §39-13-524?

**OPINION**

The proper court for prosecution of a knowing violation of a condition of community supervision is the court with criminal jurisdiction in the county where the violation occurred.

**ANALYSIS**

All persons who, on or after July 1, 1996, commit or attempt to commit the crime of aggravated rape as defined by Tenn. Code Ann. §39-13-502, rape as defined by Tenn. Code Ann. §39-13-503, aggravated sexual battery as defined by Tenn. Code Ann. §39-13-504, or rape of a child as defined by Tenn. Code Ann. §39-13-522, in addition to the punishment authorized by the specific statute prohibiting the conduct, receive a sentence of community supervision for life. Tenn. Code Ann. §39-13-524(a). A person on community supervision is under the jurisdiction, supervision and control of the Board of Probation and Parole in the same manner as a person under parole supervision. Tenn. Code Ann. 39-13-524(d)(1). The Board is authorized to establish such conditions of community supervision as are necessary to protect the public from the offender committing a new sex offense as well as promoting the rehabilitation of the person. *Id.* There is no provision for the revocation of lifetime community supervision but a defendant may petition for release from supervision after fifteen (15) years. Tenn. Code Ann. §39-13-525.

Knowing violation of a condition of community supervision is a Class A misdemeanor. The only exception is when the conduct constituting the violation is also a felony criminal offense. In that event, the violation is a Class E felony. Tenn. Code Ann. §39-13-526. A defendant is entitled to trial in the county where the offense was committed. Tenn. Const. Art. I, §9. Consequently, criminal prosecution for a knowing violation of a condition of community supervision must be brought in the county where the violation occurred.

Tenn. Code Ann. §40-1-109 vests the general sessions courts with original jurisdiction over misdemeanors brought by warrant or information provided the defendant expressly waives certain rights in writing including the right to a jury trial, and the district attorney general does not object. *See also* Tenn. R. Crim. P. 5(c). If these conditions are met, the general sessions court may hear the misdemeanor offense of knowing violation of a condition of community supervision. The jurisdiction of general sessions courts does not include the jurisdiction to render final judgment in felony cases. The felony offense of knowing violation of a condition of community supervision must be adjudicated in a court, circuit or criminal, with jurisdiction of felony criminal matters. Tenn. Code Ann. §40-1-108.

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