AN ACT to amend Tennessee Code Annotated Title 39 and Title 40, relative to the illegal possession of firearms, commission of crimes with the use of firearms and the offenders who commit such crimes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1: Tennessee Code Annotated, Title 39, Chapter 11, is hereby amended by adding the following as a newly defined part:

(a) The illegal possession of a firearm shall constitute the commission of a felony offense, unless committed by a person under the age of 21, in which case the offense shall constitute a Class A misdemeanor and carry with it special sentencing circumstances.

(b) Punishment for said offense shall be enhanced if the illegal possession occurred:
   (1) Within one and one-half miles of a school, park, playground or entertainment area
   (2) While the defendant is on any form of pretrial release, suspended sentence or probation.

(c) It shall be an affirmative defense to Section 1 (a) and 1 (b) above for a defendant to show by a preponderance of the evidence that:
   (1) The defendant obtained the firearm for legitimate purposes such as self-protection and that the defendant at the time lacked the ability to pay the required permitting and other associated fees; or
   (2) In the case of illegal possession of a firearm in a specific location, that difficulties such as illiteracy or disability fairly prevented the defendant from understanding that the possession of a firearm was forbidden at that location.

(d) If the offense occurs in a motor vehicle, the vehicle shall be confiscated, provided that confiscation of said vehicle could be avoided if a family member makes an affirmative showing that they were unaware of the gun possession and that the vehicle is needed by said family member to go to work or school or for child care purposes.

(e) Bail for said offense shall be set at not less than $5,000 unless the judge makes an affirmative finding that the ends of justice and the safety of the community will not in any manner be endangered if the defendant is released on a lower bail, which in any event should be no less than $2,500. All bail to be set in open court, then only after a full report from the State on the full circumstances of the arrest and history of the gun. Any defendant released on bail for a gun possession charge shall be required to report to a Day Reporting Center while on bail until the charge is disposed of.

(f) Any person transferring a firearm to a juvenile who disregards a substantial risk that the juvenile will use said weapon in committing any crime, not only a felony crime, shall be charged with such offense.

SECTION 2: Tennessee Code Annotated, Section 40-35-111, is hereby amended by adding the following language as a newly designated subsection (f) with subsequent subsections renumbered accordingly:

(f) In the case of youthful offenders under the age of 21 who are convicted of an offense under the preceding section, the offense shall be classified as a classified as a Class A misdemeanor and carry with it special sentencing circumstances. Special sentencing circumstances shall include, but not be limited to, a term of imprisonment not greater than twenty-three (23) months twenty-nine (29) days at the discretion of the Court so as to impose more effective interventions such as drug treatment, counseling or other interventions deemed necessary and appropriate by the Court.

SECTION 3: Tennessee Code Annotated, Title 40, Chapter 11, is hereby amended by adding the following as a newly defined part:

(g) There shall hereby be created a 'super bounty fund' to be paid to individuals providing information leading to the arrest of any person who is engaged in the illegal gun trade, defined generally as having trafficked in at least five illegal guns in a twenty-four month period. The cost of this 'super bounty fund' and other measures will be defrayed by imposing bail bonds in each illegal gun possession case, a surcharge of $200.00 to be paid prior to release.

SECTION 4: Tennessee Code Annotated, Title 40, is hereby amended by adding the following as a newly defined chapter:

(a) This part shall be known as and may be cited as the "Tennessee Gun Offender Registration, Verification, and Tracking Act of 2009."

(b) The general assembly finds and declares that:

(1) It is a compelling and necessary public interest that the public have information concerning persons convicted of offenses collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;

(2) Persons convicted of these offenses have a reduced expectation of privacy because of the public's interest in public safety;

(3) In balancing the 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;

(4) 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;

(5) 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;

(6) 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 Tennessee bureau of investigation's offender registry; and

(7) 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.

SECTION 4: This act shall take effect upon becoming a law, the public welfare requiring it.