

of the department of correction; provided, that the probation or parole officer knows or reasonably should know the person is a probationer or parolee.

(c) A violation of this section is a Class E felony.

History.

Acts 2008, ch. 1200, § 1; 2012, ch. 727, § 7.

Acts 2012, ch. 727, § 63 provided that the implementation of the act, which amended the definition of "probationer or parolee" in (a) and amended subsection (b), shall be fully accomplished on or before January 1, 2013.

Compiler's Notes.

For the Preamble to the act concerning transfers of certain functions relating to probation and parole services and the community correction grant program from the board of probation and parole to the department of correction, please refer to Acts 2012, ch. 727.

Cross-References.

Penalty for Class E felony, § 40-35-111.

PART 5

INTERFERENCE WITH GOVERNMENT OPERATIONS

39-16-501. Part definitions.

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

(1) "Public servant" means a person elected, selected, employed or otherwise designated as one (1) of the following, even if the person has not yet qualified for office or assumed the duties:

- (A) An officer, employee, or agent of government;
 - (B) A juror or grand juror;
 - (C) An arbitrator or other person who is authorized by law or private written contract to hear or determine a controversy;
 - (D) An attorney or notary public performing a governmental function; or
 - (E) A candidate for nomination or election to public office; and
- (2) "Statement" means any representation of fact.

History.

Acts 1989, ch. 591, § 1.

Section to Section References.

This part is referred to in § 40-29-204.

Cross-References.

Application for consent to petition to convene investigative grand jury, § 40-12-201.

Sections 39-16-501 — 39-16-507 are referred to in § 40-12-201.

39-16-502. False reports.

(a) It is unlawful for any person to:

(1) Initiate a report or statement to a law enforcement officer concerning an offense or incident within the officer's concern knowing that:

- (A) The offense or incident reported did not occur;
- (B) The person has no information relating to the offense or incident reported; or

(C) The information relating to the offense reported is false; or

(2) Make a report or statement in response to a legitimate inquiry by a law enforcement officer concerning a material fact about an offense or incident within the officer's concern, knowing that the report or statement is false and with the intent to obstruct or hinder the officer from:

- (A) Preventing the offense or incident from occurring or continuing to occur; or
- (B) Apprehending or locating another person suspected of committing an offense; or
- (3) Intentionally initiate or circulate a report of a past, present, or impending bombing, fire or other emergency, knowing that the report is false or baseless and knowing:
- (A) It will cause action of any sort by an official or volunteer agency organized to deal with those emergencies;
- (B) It will place a person in fear of imminent serious bodily injury; or
- (C) It will prevent or interrupt the occupation of any building, place of assembly, form of conveyance, or any other place to which the public has access.
- (b)(1) A violation of subdivision (a)(1) or (a)(2) is a Class D felony.
- (2) A violation of subdivision (a)(3) is a Class C felony.

History.

Acts 1989, ch. 591, § 1; 1990, ch. 1030, § 28; 1998, ch. 690, § 1; 2000, ch. 976, § 1; 2002, ch. 849, § 6.

Cross-References.

Accessory after the fact, § 39-11-411.
Parties to offenses, § 39-11-401.

Penalties for Class C and D felonies, § 40-35-111.

Section to Section References.

Sections 39-16-501 — 39-16-507 are referred to in § 40-12-201.

This section is referred to in § 55-52-202.

NOTES TO DECISIONS**Analysis**

1. Elements of Offense.
2. Evidence Sufficient.
3. Evidence Insufficient.
4. Joinder.
5. Multiplicity.

1. Elements of Offense.

"Report" as used in T.C.A. § 39-16-502 applies to a written or oral statement initiated by a person; the term does not apply to a person's response to an inquiry by a law enforcement officer. *State v. Levandowski*, 955 S.W.2d 603, 1997 Tenn. LEXIS 486 (Tenn. 1997).

In the parties' divorce action, the trial court erred in permanently enjoining and restraining the husband from making false reports about the wife to law enforcement authorities because T.C.A. § 39-16-502 made it unlawful for any person to make a false report or statement to a law enforcement officer; therefore, there was an adequate remedy if the husband made a false report concerning his wife. *Solima v. Solima*, — S.W.3d —, 2008 Tenn. App. LEXIS 220 (Tenn. Ct. App. Apr. 8, 2008).

2. Evidence Sufficient.

Defendant's conviction for false report was supported by sufficient evidence as it showed that defendant forced the mother of his son at gunpoint to call police and make false statements regarding defendant's whereabouts on

the date of the crime and about seeing another man and the victim in the victim's car. Although defendant did not initiate the report to the police, he caused the mother of his child to do so, making him criminally responsible under T.C.A. § 39-11-402(1) (2010) for her false report. *State v. Lewis*, — S.W.3d —, 2012 Tenn. Crim. App. LEXIS 757 (Tenn. Crim. App. Sept. 21, 2012), appeal denied, — S.W.3d —, 2013 Tenn. LEXIS 167 (Tenn. Feb. 13, 2013).

3. Evidence Insufficient.

Evidence was insufficient to sustain defendant's conviction for filing a false report because defendant was in her living room when the fugitive ran back into the house, officers saw him run into the house, and an officer asked defendant, "where is he," and defendant's response was, "I don't know." The State did not prove that defendant's answer, "I don't know," was false as to the specific question, "where is he." *State v. Mellott*, — S.W.3d —, 2013 Tenn. Crim. App. LEXIS 146 (Tenn. Crim. App. Feb. 19, 2013).

4. Joinder.

Court of criminal appeals erred in relying on Tenn. R. Crim. P. 8(a)(2) to dismiss an aggravated robbery charge because the two charges against defendant, aggravated robbery, T.C.A. § 39-13-402(a), and initiating a false police report, T.C.A. § 39-16-502; were not part of the