

HOUSE BILL 85

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 36,  
Chapter 1, relative to parental rights.

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

SECTION 1. Tennessee Code Annotated, Section 36-1-102(1)(D), is amended by deleting the subdivision in its entirety and substituting instead the following:

(D) For purposes of this subdivision (1), “willfully failed to support” or “willfully failed to make reasonable payments toward such child’s support” means the willful failure, for a period of four (4) consecutive months, to provide monetary support or the willful failure to provide more than token payments toward the support of the child, provided a written court order or ratified permanency plan pursuant to § 37-2-403 from any court of competent jurisdiction has established an obligation to pay child support, and either:

(i) A written court order provides notice to the parent or parents that the failure to pay child support for four (4) consecutive months constitutes abandonment and may result in termination of parental rights; or

(ii) A diligent effort has been made to provide written notice to the parent or parents at least four (4) months preceding the filing of a petition to terminate parental rights which explains that willful failure to support for four (4) consecutive months is grounds for termination of parental rights, and a copy of this notice is attached to such petition. In the case of a parent whose identity is unknown, such notice may be provided by publication.

SECTION 2. Tennessee Code Annotated, Section 36-1-102(1)(E), is amended by deleting the subdivision in its entirety and substituting instead the following:

(E) For purposes of this subdivision (1), "willfully failed to visit" means the willful failure, for a period of four (4) consecutive months, to visit or engage in more than token visitation, provided that in any pending court action involving paternity, custody, support or visitation, either:

(i) A written court order provides notice to the parent or parents that the failure to visit the child for four (4) consecutive months constitutes abandonment and may result in termination of parental rights; or

(ii) A diligent effort has been made to provide written notice to the parent or parents at least four (4) months preceding the filing of a petition to terminate parental rights which explains that willful failure to visit the child for four (4) consecutive months is grounds for termination of parental rights, and a copy of this notice is attached to such petition. In the case of a parent whose identity is unknown, such notice may be provided by publication.

SECTION 3. Tennessee Code Annotated, Section 36-1-113(g)(9), is amended by deleting subdivision (A) in its entirety and substituting instead the following:

(A) The parental rights of any person who, at the time of the filing of a petition to terminate the parental rights of such person or, if no such petition is filed, at the time of the filing of a petition to adopt a child, is alleged to be the biological parent of the child who is the subject of such petition, whether or not such person is the legal parent or guardian of such child or a parent who is described in § 36-1-117(b) or (c), may also be terminated based upon any one (1) or more of the following additional grounds:

(i) The person has failed, without good cause or excuse, to pay a reasonable share of prenatal, natal, and postnatal expenses involving the birth of the child in accordance with the person's financial means promptly upon the person's receipt of notice of the child's impending birth;

(ii) The person has failed, without good cause or excuse, to make reasonable and consistent payments for the support of the child, whether or not

such payments are pursuant to a court order, as provided in the child support guidelines promulgated by the department pursuant to § 36-5-101; or

(iii) The person has failed to seek reasonable visitation with the child, and if visitation has been granted, has failed to visit altogether, or has engaged in only token visitation, as defined in § 36-1-102(1)(C);

SECTION 4. Tennessee Code Annotated, Section 36-1-113(g)(9), is further amended by adding the following new subdivision (B) and redesignating the existing subdivision accordingly:

(B) The parental rights of any person who, at the time of the filing of a petition to terminate the parental rights of such person or, if no such petition is filed, at the time of the filing of a petition to adopt a child, is not the legal parent or guardian of such child or a parent who is described in § 36-1-117(b) or (c), may also be terminated based upon any one (1) or more of the following additional grounds:

(i) The person has failed to manifest an ability and willingness to assume legal and physical custody of the child; or

(ii) Placing custody of the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child; or

(iii) The person has failed to file a petition to establish paternity of the child within thirty (30) days after notice of alleged paternity by the child's mother, or as required in § 36-2-318(j), or after making a claim of paternity pursuant to § 36-1-117(c)(3);

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it.