

HOUSE BILL 2495

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 37,
relative to juveniles.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-104(b), is amended by deleting the subsection and substituting instead:

(b) The juvenile court has concurrent jurisdiction with the general sessions court for the offenses of contributing to the delinquency or unruly conduct of a minor as defined in § 37-1-156 and contributing to the dependency of a minor as defined in § 37-1-157.

SECTION 2. Tennessee Code Annotated, Section 37-1-110, is amended by deleting the section and substituting instead:

(a) Before or after a petition is filed, a designated court officer may informally resolve a complaint containing delinquent or unruly allegations without adjudication by giving counsel and advice to the child if such informal resolution would be in the best interest of the public and the child, and the child and the child's parents, guardian, or other custodian consent to the informal adjustment with knowledge that consent is not obligatory. The informal adjustment shall not extend beyond three (3) months from the day commenced unless extended by the court and does not authorize the detention of the child if not otherwise permitted by this part.

(b)

(1) After a petition has been filed and a designated court officer determines that an unruly or delinquent case is an appropriate case for diversion from adjudication, the parties may agree to pretrial diversion that suspends the

proceedings and places the child under supervision on terms and conditions agreeable to the designated court officer and approved by the court. A child may not be placed on pretrial diversion if the delinquent act alleged is an offense described in § 37-1-153(b).

(2) A pretrial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court. Upon application of any party to the proceedings, made before expiration of the six-month period and after notice and a hearing, pretrial diversion may be extended by the court for an additional six (6) months.

(3) If, prior to discharge by the court or expiration of the pretrial diversion period, the child fails to fulfill the terms and conditions of the pretrial diversion agreement, the original petition may be reinstated and the case may proceed to adjudication just as if the agreement had never been entered.

(c) The petition shall be dismissed with prejudice once a child completes an informal adjustment pursuant to subsection (a) or pretrial diversion pursuant to subsection (b) without reinstatement of the original delinquent or unruly petition.

SECTION 3. Tennessee Code Annotated, Section 37-1-124(a), is amended by deleting the language ", and pursuant to Rule 27 of the Tennessee Rules of Juvenile Procedure".

SECTION 4. Tennessee Code Annotated, Section 37-1-129, is amended by deleting the subsections (a)-(d), substituting instead the following, redesignating current subsection (e) appropriately, and deleting subsection (f):

(a)

(1) If a child alleged to be delinquent or unruly enters a plea of guilty or no contest, the court may defer further proceedings and place the child on probation upon such reasonable conditions as it may require without entering a judgment of guilty and with the consent of the child. Probation conditions shall not include a period of detention or placing the child in custody of the department. A child shall not be placed on judicial diversion if the delinquent act

alleged is an offense described in § 37-1-153(b) or if the child has previously been adjudicated delinquent for such an offense.

(2) A judicial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court. Upon application of any party to the proceedings, made before expiration of the six-month period and after notice and a hearing, judicial diversion may be extended by the court for an additional six (6) months.

(3) If a violation of any of the terms of judicial diversion probation is alleged, the child shall be given notice of the violation and an opportunity to be heard concerning the alleged violation. If, after a hearing, the court determines that a violation has occurred, the court may enter an adjudication of guilty and proceed to a dispositional hearing. If no violation is found, the court may continue the period of probation or may dismiss the petition.

(4) If, during the period of probation, the child does not violate any of the conditions of the probation, then upon expiration of the period, the court shall discharge the child and dismiss the proceedings against the child.

(b)

(1) If an adjudicatory hearing is held, the court shall make and file its findings as to whether the child is a dependent and neglected child, or, if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by that child. If the court finds that the child is not a dependent or neglected child or that the allegations of delinquency or unruly conduct have not been established, it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding.

(2) If the petition alleged the child was dependent and neglected as defined in § 37-1-102(b)(12)(G), or if the court so finds regardless of the grounds alleged in the petition, the court shall determine whether the parents or either of them or another person who had custody of the child committed severe child abuse. The court shall file written findings of fact that are the basis of its conclusions on that issue within thirty (30) days of the close of the hearing or, if an appeal or a petition for certiorari is filed, within five (5) days thereafter, excluding nonjudicial days. If the court finds the child is dependent and neglected, a dispositional hearing shall be held. In scheduling the hearing, the court shall give priority to proceedings in which a child has been removed from the child's home before an order of disposition has been made.

(3) If the petition alleged the child was delinquent or unruly and the court finds that the child committed the alleged delinquent or unruly acts, the court shall further determine whether the child is in need of treatment or rehabilitation and make and file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of acts that constitute a felony or that reflect recidivistic delinquency is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds the child is in need of treatment and rehabilitation, a dispositional hearing shall be held. If the court finds the child is not in need of treatment or rehabilitation, it shall dismiss the petition and discharge the child from any detention or other restriction. If the court continues its determination of whether the child is in need of treatment and rehabilitation or the dispositional hearing, it shall make an appropriate order for detention of the child or the child's release from detention, subject to supervision of the court during the period of the continuance. In scheduling the hearings, the

court shall give priority to proceedings in which a child is in detention or has otherwise been removed from the child's home before an order of disposition has been made.

SECTION 5. Tennessee Code Annotated, Section 37-1-134(a)(3), is amended by deleting the language "three (3)" and substituting instead the language "fourteen (14)".

SECTION 6. Tennessee Code Annotated, Section 37-1-134(a)(4), is amended by deleting the language "are reasonable grounds" and substituting instead the language "is probable cause".

SECTION 7. Tennessee Code Annotated, Section 37-1-131(a)(2)(A), is amended by adding the following language to the end of the subdivision:

If in a subsequent proceeding, the court finds the child has violated any of the conditions or limitations of probation, the court may make any disposition which would have been permissible in the original proceeding;

SECTION 8. Tennessee Code Annotated, Section 37-1-139, is amended by deleting subsection (b) and substituting instead:

(b) Except for an order terminating parental rights or an order of dismissal, an order of the court may be changed or modified:

(1) Upon a finding of changed circumstances and that the change or modification is in the best interest of the child;

(2) If the order contains clerical mistakes; or

(3) If newly discovered evidence so requires.

SECTION 9. Tennessee Code Annotated, Section 37-1-139(c), is amended by deleting the language "Pursuant to Rule 22 of the Tennessee Rules of Juvenile Procedure, in" and substituting instead the language "In".

SECTION 10. Tennessee Code Annotated, Section 37-1-139, is further amended by deleting subsections (d) and (e).

SECTION 11. Tennessee Code Annotated, Section 37-1-146(b), is amended by adding the following new subdivision:

(5) Perform community service work in lieu of a fine.

SECTION 12. Tennessee Code Annotated, Section, 37-1-152, is amended by deleting the section and substituting instead:

At the commencement or during the pendency of any matter, or as part of its dispositional order, the court may, on application of a party or on its own motion, grant injunctive relief upon such terms as the court may deem proper.

SECTION 13. Tennessee Code Annotated, Section 37-1-702(b)(1), is amended by deleting the subdivision and substituting instead:

(1) Pursuant to local, written procedures adopted by the juvenile court, participation in the teen court program may be initiated by an officer of the court under the informal adjustment or pretrial diversion process of § 37-1-110;

SECTION 14. Tennessee Code Annotated, Section 37-1-702(b)(2)(A), is amended by deleting the subdivision and substituting instead:

(A) After the court places a child on judicial diversion or adjudicates a child delinquent or unruly pursuant to § 37-1-129, the court may direct that the disposition determination will be made by the teen court;

SECTION 15. Tennessee Code Annotated, Section 37-1-702(c)(1), is amended by adding the language "or attempted offense" between the words "offense" and "underlying".

SECTION 16. Tennessee Code Annotated, Section 37-1-702(c)(1)(H), is amended by deleting the subdivision and redesignating the remaining subdivisions.

SECTION 17. This act shall take effect July 1, 2016, the public welfare requiring it.