

SENATE BILL 2571

By Norris

AN ACT to amend Tennessee Code Annotated, Section 37-1-159, relative to appeals.

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

SECTION 1. Tennessee Code Annotated Section 37-1-159, is amended by deleting subsection (a) and substituting instead the following:

(a) The juvenile court shall be a court of record; and any appeal from any final order or judgment in a delinquency proceeding, filed under this chapter, except a proceeding pursuant to § 37-1-134, may be made to the criminal court or court having criminal jurisdiction that shall hear the testimony of witnesses and try the case de novo. Any appeal from any final order or judgment in an unruly child proceeding or dependent and neglect proceeding, filed under this chapter, may be made to the circuit court that shall hear the testimony of witnesses and try the case de novo. The appeal shall be perfected within ten (10) days, excluding nonjudicial days, following the entry of the juvenile court's order. If a hearing before a judge of a matter heard by a magistrate is not requested or provided pursuant to § 37-1-107, the date of the expiration of the time within which to request the hearing shall be the date of disposition for appeal purposes, and the parties and their attorneys shall be so notified by the magistrate. If there is a rehearing by the judge, the appeal period shall commence the day after the order of disposition is entered. All parties to the juvenile court proceeding shall be parties to the de novo appeal.

SECTION 2. Tennessee Code Annotated, Section 37-1-159, is further amended by adding the following to the end of subsection (b):

A juvenile court shall retain jurisdiction to the extent needed to complete any reviews or permanency hearings for children in foster care as may be mandated by federal or state law.

SECTION 3. Tennessee Code Annotated, Section 37-1-159, is amended deleting subsection (d), substituting instead the following, and redesignating the subsequent subsections:

(d) There is no civil appeal from a juvenile court's disposition pursuant to § 37-1-134, unless the transfer hearing is heard by a non-lawyer judge. The only interlocutory appeal pursuant to § 37-1-134 shall be an appeal by permission by the state or the defendant from an order granting or denying a motion to suppress the use of evidence in a transfer hearing. In determining whether to grant permission for an interlocutory appeal, the juvenile court shall consider the likelihood of irreparable injury to the state if the evidence is excluded or to the defendant if the evidence is admitted. The criminal or circuit court shall have jurisdiction over the interlocutory appeal. The state or defendant shall file the motion for the interlocutory appeal within ten (10) days after the date of the entry of the order appealed from. The juvenile court transfer proceeding shall be stayed, pending the outcome of the appeal. A juvenile court shall retain jurisdiction to the extent needed to complete any reviews or permanency hearings for children in foster care as may be mandated by federal or state law.

(e) If a nonlawyer judge presides at the transfer hearing in juvenile court, then the criminal court, upon motion of the child filed within ten (10) days of the juvenile court order, excluding nonjudicial days, shall hold a hearing as expeditiously as possible to determine whether it will accept jurisdiction over the child; provided, that if no such motion is filed with the criminal court within the ten-day period, excluding nonjudicial days, such child shall be subject to indictment, presentment, or information for the offense charged and thus subject to trial as an adult. At this hearing, which is de novo, the criminal court shall consider:

(1) Any written reports from professional court employees, professional consultants, as well as the testimony of any witnesses; and

(2) Those issues considered by the juvenile court pursuant to § 37-1-134(a) and (b).

SECTION 4. This act shall take effect July 1, 2016, the public welfare requiring it.