

SENATE BILL 2575

By Norris

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 1, relative to juvenile court.

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

SECTION 1. Tennessee Code Annotated Section 37-1-108(4), is amended by deleting the subdivision and substituting instead the following:

(4) In other cases by the filing of a petition as provided in this part or by issuing a citation as authorized by law. The petition and all other documents in the proceeding, other than a citation, shall be entitled "In the matter of _____, a child under eighteen (18) years of age."

SECTION 2. Tennessee Code Annotated Section 37-1-117, is amended by deleting the section and substituting instead the following:

(a)

(1) If a child alleged to have committed a delinquent or unruly act is brought before the court or delivered to a detention facility designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that such child's detention is warranted or required under § 37-1-114.

(2) If such child is not so released, the court shall issue an order authorizing the detention of the child and a petition under § 37-1-120 shall be promptly filed with the court. In the case of a child alleged to be delinquent, a detention hearing shall be held no later than seventy-two (72) hours after the child is placed in detention to determine whether such child's detention is required under § 37-1-114. In computing the time limitation for purposes of such

detention hearing, nonjudicial days are excluded, but in no event shall the hearing be held later than eighty-four (84) hours after the child is placed in detention. The court, in its discretion, may release the child on an appearance bond.

(b)

(1) When the court finds, based upon a sworn petition or sworn testimony containing specific factual allegations, that there is probable cause to believe that the conditions specified in § 37-1-114(a)(2) exist and a child is in need of the immediate protection of the court, the court may order that the child be removed from the custody of the child's parent, guardian, legal custodian, or the person who physically possesses or controls the child and be placed in the custody of a suitable person, persons, or agency, as specified in § 37-1-116(d), pending further investigation and hearing. When a child alleged to be dependent and neglected is removed from the custody of such child's parent, guardian, legal custodian, or the person who physically possesses or controls the child prior to a hearing on a petition, a preliminary hearing shall be held no later than seventy-two (72) hours after the child's removal to determine whether such child's continued removal is required under § 37-1-114. In computing the time limitation for purposes of such preliminary hearing, nonjudicial days are excluded, but in no event shall the hearing be held later than eighty-four (84) hours after the child is removed from the home.

(2) If a child is removed from the home prior to the filing of a petition, a petition shall be filed within forty-eight (48) hours of the removal, excluding nonjudicial days, unless the child is returned to the home within the 48-hour time period. In no event shall a petition be filed later than the preliminary hearing.

(3) This subsection (b) may be waived by express and knowing waiver, by the parties to an action including the parents, guardian, or legal custodian and the child or guardian ad litem for the child. Any such waiver may be revoked at

any time, at which time this section shall apply. The court shall make every effort to advise the parent, guardian, or legal custodian, and the child individually, if fourteen (14) years of age or older, of the time, date, and place of the hearing and the factual circumstances necessitating the removal.

(c) If the child is not so released, and a parent, guardian, or legal custodian has not been notified of the hearing, did not appear or waived appearance at this hearing, and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order such child's release unless it appears from the hearing that the child's detention or shelter care is required under § 37-1-114.

SECTION 3. Tennessee Code Annotated Section 37-1-128(b), is amended by deleting the subsection.

SECTION 4. Tennessee Code Annotated Section 37-1-120, is amended by deleting the section and substituting instead the following:

The petition shall be verified and may be on information and belief. It shall set forth plainly and to the extent reasonably ascertainable:

(1) The facts that bring the child within the jurisdiction of the court, including the approximate date, manner, and place of the acts alleged, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;

(2) The name, age, and residence address, if any, of the child on whose behalf the petition is brought and the places where the child has lived for the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period;

(3) The names and residence addresses, if known to petitioner, of the legal parents, guardian, or custodian of the child and of the child's spouse, or of any person who has physical custody of the child or claims rights of legal or physical custody of, or visitation with the child;

(4) The names, and residence addresses, if known to the petitioner, of any persons, other than the legal father, alleged to be the biological father of the child whose parental rights have not been terminated;

(5) The court, case number, and nature of any proceeding, if known to the petitioner, that could affect the current proceeding including proceedings for custody, visitation, enforcement, domestic violence, protective orders, termination of parental rights, or adoption;

(6) A statement whether the petitioner has participated as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, a statement that identifies the court, the case number, and the date of the child custody determination, if any;

(7) A statement whether or not the parents are currently serving in the armed forces;

(8) If the child is in detention, the place of detention, and the time the child was taken into custody; and

(9) A statement whether the child or child's parent is a member or eligible for membership in any recognized Indian tribe under the federal Indian Child Welfare Act, compiled in 25 U.S.C. § 1901.

SECTION 5. This act shall take effect July 1, 2016, the public welfare requiring it.