

Tenn. Code Ann. § 37-1-130

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TN - Tennessee Code Annotated Title 37 Juveniles Chapter 1 Juvenile Courts and Proceedings Part 1 General Provisions

37-1-130. Dependent or neglected child — Disposition.

(a) If the child is found to be dependent or neglected, the court may make any of the following orders of disposition best suited to the protection and physical, mental and moral welfare of the child:

(1) Subject to the restrictions of § 37-1-129(c), permit the child to remain with the child's parents, guardian or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;

(2) Subject to the restrictions of § 37-1-129(c), and subject to conditions and limitations as the court prescribes, transfer temporary legal custody to or grant permanent guardianship in accordance with part 8 of this chapter to any of the following:

(A) Any individual who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;

(B) The department of children's services:

(i) Any child placed in the custody of the department of children's services shall become a resident of the county in which such child is placed by the department. The board of education of each local school system shall assign the student to a public school pursuant to § 49-6-3102;

(ii) In order to assure appropriate placement for students with disabilities, the procedures required by the state board of education must be followed;

(iii) If a student is determined to be a child with disabilities as defined by state and federal laws and regulations and, therefore, entitled to special education and related services, a multi-disciplinary team of the receiving school system must be convened prior to the placement of the child in the school system for the purpose of developing an appropriate educational program. The department shall notify the

receiving school system as far in advance of the intended placement as possible. A representative from the department must be present at the multi-disciplinary team meeting;

(iv) Placements in educational programs not following the requirements set forth in this section shall be the financial responsibility of the department of education;

(v) Any financial responsibility required under the provisions of this section for the education of children with disabilities whose parents are not residents of the county in which the children are placed shall be borne by the department of education and not by any local government. This provision shall not act to reduce federal funds for children with disabilities or special education going to any local education agency;

(C) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child; or

(D) An individual in another state with or without supervision by an appropriate officer under § 37-1-142;

(3) In those counties having a county department of children's services, commit the child to the custody of such county department; or

(4) Without making any of the foregoing orders, transfer custody of the child to the juvenile court of another state if authorized by and in accordance with § 37-1-141 if the child is or is about to become a resident of that state.

(b) Unless a child found to be dependent or neglected is found also to be delinquent, the child shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children. Any disposition under this section shall be implemented as soon as possible after entry of the court's order. A disposition under subdivision (a)(2) or (3) shall, in no event, result in the child's detention in shelter care, as defined in § 37-1-116, or other temporary placement, without provision of necessary services consistent with the child's assessments or evaluations, in excess of thirty (30) days after entry of the court's order.

(c) No child who has been found to be a victim of severe child abuse shall be returned to the custody or residence of any person who engaged in or knowingly failed to protect the child from the brutality or abuse unless the court finds on the basis of clear and convincing evidence that the child will be provided a safe home free from further such brutality and 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 petition for certiorari is filed, within five (5) days thereafter, excluding Sundays. No such child shall be returned to such custody on the basis of the court's order until five (5) days after entry of the order without the consent of the department and the petitioner.

(d)

(1) When the department determines that a child who has been committed to the department under this section is ready to return home, the department shall notify the court in writing of its intention to place the child at home on a trial home visit. If the court objects to the trial home visit, it must notify the department of its objection in writing or set a hearing within fifteen (15) days of the date of the notice, with such hearing to be held at the earliest possible date. If the hearing is not set nor a written objection

received within fifteen (15) days of the date of the notice, the department may place the child on a trial home visit. The notice shall include the provision that the department's legal custody of the child shall terminate in ninety (90) days.

(2) If during the ninety-day period the department determines that the trial home visit is not in the child's best interest and removes the child on an emergency basis or seeks to remove the child on a non-emergency basis, the department shall file a motion for review by the court of the trial home visit and shall provide notice to the parent or parents, guardian or other custodian. The court shall hold a hearing on such motion within three (3) days of an emergency removal and shall set a hearing within fifteen (15) days to be held at the earliest possible date if the motion seeks the court's permission to make a non-emergency removal.

(3) During the ninety-day trial home visit, the court may periodically review the child's status and may make any orders that the best interest of the child may require.

(4) Prior to making the notification required in subdivision (d)(1), the department must conduct an assessment of the home to determine whether the child will receive proper care and supervision in the home, including a visit to the home.

History

Acts 1970, ch. 600, § 30; impl. am. Acts 1975, ch. 219, § 1; 1977, ch. 482, § 4; Acts 1978, ch. 886, § 1; 1979, ch. 143, § 9; T.C.A., § 37-230; Acts 1985 (1st Ex. Sess.), ch. 6, § 2; 1996, ch. 1079, §§ 73, 90, 91; 1999, ch. 508, § 7; 2007, ch. 372, § 3; 2011, ch. 314, §§ 1, 2; 2013, ch. 397, § 1; 2023, ch. 198, § 1.

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