

Tenn. Code Ann. § 37-1-131

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

37-1-131. Delinquent child — Disposition — Restitution.

(a) If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation and welfare:

(1) Subject to conditions and limitations as the court prescribes, transfer temporary legal custody or grant permanent guardianship in accordance with part 8 of this chapter to any relative or other individual with a relationship with the child who is found by the court to be qualified to receive and care for the child, if the court finds that such a transfer or grant is in the best interest of the child;

(2)

(A)

(i) Placing the child on probation under the supervision of the probation officer of the court or the department of children's services, any person, or persons or agencies designated by the court, or the court of another state as provided in § 37-1-143, under conditions and limitations prescribed by the court in consultation with the supervising authority and consistent with a validated risk and needs assessment, which may include completion of substance abuse and mental health treatment services where appropriate;

(ii)

(a) A child may be placed on probation for a maximum period of six (6) months, subject to this subdivision (a)(2)(A)(ii). Before expiration of the first six-month period or any extension period thereafter, and after notice and a hearing, the court may extend probation for additional periods not to exceed six (6) months each, but only if the court finds and issues a written order that:

(1) States that it is in the best interest of the child that a condition or conditions of probation remain in effect; and

(2) Specifies the condition or conditions that shall remain in effect and why that continued effectiveness is in the best interest of the child; and

(b) If the requirements of subdivision (a)(2)(A)(ii)(a) have been met, probation may continue only so long as it is in the best interest of the child that the condition or conditions of probation remain in effect;

(iii) If the supervising authority finds the child has violated the conditions or limitations of probation, the supervising authority may file a petition alleging a violation of the conditions or limitations of probation with the court; provided, that the court, in its discretion, may direct the supervising authority that, in some or all circumstances, such a petition should be filed only if the supervising authority makes and documents attempts to address the noncompliant behavior and determines and documents the reasons for which court intervention is needed to address the noncompliance;

(iv) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of probation, or probation may be terminated; and

(v) If in a subsequent proceeding, the court finds the child has violated any of the conditions or limitations of probation, the court may modify conditions consistent with the results of the previously administered validated risk and needs assessment, including ordering a transfer or grant pursuant to subdivision (a)(1). The court shall not order a child placed in the custody of the department for a violation of the conditions or limitations of probation unless:

(a) The child is separately adjudicated dependent or neglected and placed pursuant to § 37-1-130;

(b) The child is separately adjudicated delinquent and placed pursuant to this section for an eligible delinquent offense arising out of a subsequent criminal episode other than the offense for which the child has been placed on probation; or

(c)

(1) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department; and

(2) A child placed in the custody of the department under this subdivision (a)(2)(A)(v)(c) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(A) The child needs services or treatment that are available only if the child is in custody; and

(B) The services or treatment the child needs are evidence-based and will be provided by a qualified provider;

(B) The court shall make a finding that the child's school shall be notified, if:

(i) The child has been adjudicated delinquent for any of the following offenses:

(a) First degree murder, as defined in § 39-13-202;

(b) Second degree murder, as defined in § 39-13-210;

(c) Rape, as defined in § 39-13-503;

(d) Aggravated rape, as defined in § 39-13-502;

- (e)** Rape of a child, as defined in § 39-13-522;
- (f)** Aggravated rape of a child, as defined in § 39-13-531;
- (g)** Aggravated robbery, as defined in § 39-13-402;
- (h)** Especially aggravated robbery, as defined in § 39-13-403;
- (i)** Kidnapping, as defined in § 39-13-303;
- (j)** Aggravated kidnapping, as defined in § 39-13-304;
- (k)** Especially aggravated kidnapping, as defined in § 39-13-305;
- (l)** Aggravated assault, as defined in § 39-13-102;
- (m)** Felony reckless endangerment pursuant to § 39-13-103;
- (n)** Aggravated sexual battery, as defined in § 39-13-504;
- (o)** Voluntary manslaughter, as defined in § 39-13-211;
- (p)** Criminally negligent homicide, as defined in § 39-13-212;
- (q)** Sexual battery by an authority figure, as defined in § 39-13-527;
- (r)** Statutory rape by an authority figure, as defined in § 39-13-532;
- (s)** Prohibited weapon, as defined in § 39-17-1302;
- (t)** Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;
- (u)** Carrying weapons on school property, as defined in § 39-17-1309;
- (v)** Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311;
- (w)** Handgun possession, as defined in § 39-17-1319;
- (x)** Providing handguns to juveniles, as defined in § 39-17-1320; or
- (y)** Any violation of § 39-17-417 that constitutes a Class A or Class B felony; and
- (ii)** School attendance is a condition of probation, or if the child is to be placed in the custody of a state agency and is to be placed in school by a state agency or by a contractor of the state agency;
- (C)** The court may make a finding that the child's school shall be notified based on the circumstances surrounding the offense if the adjudication of delinquency is for an offense not listed in this subsection (a);
- (D)** The court shall then enter an order directing the youth service officer, probation officer, or the state agency, if the child has been committed to the custody of the state agency, to notify the school principal in writing of the nature of the offense and probation requirements, if any, related to school attendance, within five (5) days of the order or before the child resumes or begins school attendance, whichever occurs first. In individual cases when the court deems it appropriate, the court may also include in the order a requirement to notify county and municipal law enforcement agencies having jurisdiction over the school in which the child will be enrolled;
- (E)** When the principal of a school is notified, the principal of the child's school, or the principal's designee, shall convene a meeting to develop a plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, the department of children's services if the child is in state custody, the child's parent/guardian/legal caretaker if not in state custody, and other appropriate parties identified by the child, the department of children's services or

parent/guardian/legal caretaker shall be invited to the meeting. The plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals;

(F) The information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law.

Notification in writing of the nature of the offense committed by the child and any probation requirements and the plan shall not become a part of the child's student record;

(G) In no event shall a child be delayed from attending school for more than five (5) school days from the date of notice;

(H) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required;

(I) Upon the subsequent enrollment of any such student in any other LEA, the parents or custodians of the student, and the administrator of any school having previously received the same or similar notice pursuant to this section, shall notify the school in the manner specified in § 49-6-3051;

(J) A violation of the confidentiality provisions of subdivision (a)(2)(F) is a Class C misdemeanor;

(K)

(i) If the court does not place the child in state custody, but orders the child to complete an inpatient mental health treatment program at a hospital or treatment resource as defined in § 33-1-101, upon leaving that hospital or treatment resource, the principal of the child's school shall be notified and the principal of the child's school or the principal's designee shall convene a meeting to develop a transition plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, child's parent/guardian/legal caretaker, other relevant service providers, and other appropriate parties identified by the child and parent/guardian/legal caretaker shall be invited to the meeting;

(ii) If an information release is executed in compliance with § 33-3-109 that provides the principal or other designated school personnel access to certain information concerning the child, the principal or other designated school personnel may work with the child's mental health provider to develop this plan. The transition plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals. The information shall be shared only with employees of the school having responsibility for classroom instruction of the child, but the information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may be otherwise required by law. The notification in writing of the nature of the offense

committed by the child, any probation requirements, and the transition plan developed pursuant to this subdivision (a)(2)(K)(ii) shall not become a part of the child's student record;

(iii) In no event shall a child be delayed from attending school for more than five (5) school days;

(iv) A violation of the confidentiality provisions of subdivision (a)(2)(K)(ii) is a Class C misdemeanor;

(3) Placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority. The court may order the delinquent child to participate in programming at a nonresidential facility for delinquent children operated under the direction of the court or other local public authority after the period of detention. The court shall report each disposition of detention to the administrative office of the courts;

(4)

(A) Subject to the restrictions of § 37-1-129(c) and this subdivision (a)(4), commit the child to the department of children's services, which commitment shall not extend past the child's nineteenth birthday;

(B) A child is eligible for commitment to the department only if:

(i) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a felony if committed by an adult;

(ii)

(a) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a misdemeanor if committed by an adult; and

(b) The child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute either a felony or misdemeanor if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor; or

(iii)

(a) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department; and

(b) A child placed in the custody of the department under this subdivision (a)(4)(B)(iii) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(1) The child needs treatment or services that are available only if the child is in custody; and

(2) The treatment or services the child needs are evidence-based and will be provided by a qualified provider;

(5) [Deleted by 2018 amendment, effective July 1, 2019.]

(6) Committing the child to the custody of the county department of children's services in those counties having such a department, but only if the child is eligible for commitment to the department under subdivision (a)(4) and subject to the conditions applicable to department commitment under § 37-1-137;

(7)

(A) Ordering the child to perform community service work with such work being in compliance with federal and state child labor laws. For first-time delinquent acts involving alcohol or beer, in its order for community service work, the court may require the juvenile to spend a portion of such time in the emergency room of a hospital, only if, and to the extent, the hospital agrees with such action;

(B) No charitable organization, municipality, county or political subdivision thereof utilizing juveniles performing community service work pursuant to this chapter shall be liable for any injury sustained by the juvenile or other person, proximately caused by the juvenile, while the juvenile is performing a work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(C) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any person for any act of a juvenile while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(D) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any juvenile or the juvenile's family for death or injuries received, proximately caused by the juvenile, while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(E) The authority and protection from liability provided by this section is supplemental and in addition to any other authority and protection provided by law;

(F) The court shall not order a child placed in the custody of the department or otherwise remove the child from the child's home, including the home of a parent, guardian, or other legal custodian for any length of time, for failure to complete community service work or satisfy conditions associated with community service work as ordered by the court; and

(8)

(A) In lieu of committing a child to the custody of the department of children's services and subject to the requirements of subdivision (a)(8)(B), the court may order any of the following if the child is found to be a delinquent child:

(i) Assign a long-term mentor to such child; or

(ii) Require that the delinquent child or any of the child's family members receive counseling services from any counseling service provided through or approved by the juvenile court;

(B) An order may be issued under subdivision (a)(8)(A) only if the funding necessary to implement such order is appropriated by the legislative body of the county in which the court is located or is provided by grants from public or private sources.

(b)

(1) If the child is found to be delinquent, the court shall determine if any monetary damages actually resulted from the child's delinquent conduct. Upon a determination that monetary damages resulted from such conduct, the court shall order the child to make restitution for such damages unless the court

further determines that the specific circumstances of the individual case render such restitution, or a specified portion thereof, inappropriate. The court shall identify whether a restorative justice program addressing loss resulting from a delinquent act is available and may be utilized appropriately in the place of financial restitution. Any financial obligations or restitution assessed against the child or the child's parents, legal custodians, or guardians shall be considered collectively with community service work to ensure that the order of disposition is reasonable and, where applicable, prioritizes restitution to the victim. In determining whether an order of disposition is reasonable, the court may consider whether the child and the child's parents, legal custodians, or guardians have the ability to complete the requirements of the order within six (6) months.

(2)

(A) IF restitution is ordered pursuant to this subsection (b) in those cases where the court has made a finding that:

(i) A specified amount is owed;

(ii) Such amount is ordered to be paid pursuant to a specific payment schedule; and

(iii) The total amount of such ordered restitution is not paid by the time the juvenile court determines that discharge of a case is appropriate or no longer has jurisdiction over the child;

THEN, notwithstanding § 37-1-133(b) or any other law to the contrary, the recipient of such restitution may convert the unpaid balance of the restitution ordered by the court into a civil judgment in accordance with the procedure set out in this subsection (b). The payment of such civil judgment shall be at the same payment schedule as that as when the offender was a juvenile.

(B) Under such judgment, payments shall be continued to be made under the specific payment schedule ordered by the juvenile court until the judgment has been satisfied.

(3) The restitution recipient shall file a certified copy of the juvenile court's restitution order with any court having jurisdiction over the total amount of restitution ordered.

(4) Upon receipt of such a restitution order, the court shall take proof as to the amount of ordered restitution actually paid. If the court finds that the amount of restitution actually paid is less than the total amount of restitution ordered by the juvenile court, it shall enter a judgment in favor of the restitution recipient and against the offender for the amount of the unpaid balance of such restitution.

(5) A judgment entered pursuant to this subsection (b) shall remain in effect for a period of ten (10) years from the date of entry and shall be enforceable by the restitution recipient in the same manner and to the same extent as other civil judgments; however, such civil judgment shall not be referred to any collection service as defined by § 62-20-102.

(c)

(1) This subsection (c) shall apply to a juvenile who is adjudicated delinquent, but not committed to the custody of the department of children's services, for an act that if committed by an adult would be one (1) or more of the following offenses:

(A) First degree murder, as prohibited by § 39-13-202;

(B) Second degree murder, as prohibited by § 39-13-210;

(C) Voluntary manslaughter, as prohibited by § 39-13-211;

- (D)** Criminally negligent homicide, as prohibited by § 39-13-212;
- (E)** Rape, as prohibited by § 39-13-503;
- (F)** Aggravated rape, as prohibited by § 39-13-502;
- (G)** Rape of a child, as prohibited by § 39-13-522;
- (H)** Aggravated rape of a child, as prohibited by § 39-13-531;
- (I)** Aggravated robbery, as prohibited by § 39-13-402;
- (J)** Especially aggravated robbery, as prohibited by § 39-13-403;
- (K)** Kidnapping, as prohibited by § 39-13-303;
- (L)** Aggravated kidnapping, as prohibited by § 39-13-304;
- (M)** Especially aggravated kidnapping, as prohibited by § 39-13-305;
- (N)** Aggravated assault, as prohibited by § 39-13-102;
- (O)** Felony reckless endangerment, as prohibited by § 39-13-103;
- (P)** Sexual battery, as prohibited by § 39-13-505;
- (Q)** Aggravated sexual battery, as prohibited by § 39-13-504; or
- (R)** Any other Class A or Class B felony.

(2) If a court finds a juvenile to be delinquent as a result of an act listed in subdivision (c)(1), the court shall have broad discretion to issue orders and, in conjunction with representatives from the LEA, to change the educational assignment of the juvenile. The court shall involve representatives of the LEA, as necessary, to ascertain a proper educational assignment and the availability of secure educational facilities for the juvenile who, through actions of the court, is facing personal restrictions or being released with compulsory attendance in school as a condition of personal restriction or release. There shall be a presumption in favor of issuing a court order prohibiting the juvenile from attending the same educational placement as the victim.

(3) The court shall have discretion to determine how best to restrict future contact of the defendant with the victim while the victim is at school or in other public settings.

(4) When consulted by the court, the representatives of the LEA shall provide a list of alternatives to attendance at the school which is attended by the victim. This information shall include the availability of programs including another school assignment within the district, alternative school, virtual education, homebound instruction, adult education programs, and high school equivalency testing eligibility.

(5) The school resource officer shall be authorized to assist school officials in the enforcement of orders issued by the court and shall be made fully aware of the confidential nature of any order and the student's educational assignment.

(6) [Deleted by 2018 amendment, effective July 1, 2018.]

(d)

(1) Notwithstanding this section to the contrary, a juvenile who is adjudicated delinquent for conduct that, if committed by an adult, would constitute one (1) of the offenses set out in subdivision (d)(3) shall be committed to the department of children's services for a period of not less than one (1) year; provided, that for the offenses listed in subdivisions (d)(3)(D) and (E), a court may, upon a finding of good cause, order a commitment for a term of less than one (1) year or decline to order a commitment.

(2) The commitment required by subdivision (d)(1) must be the least restrictive disposition permissible for an applicable juvenile, and nothing in this subsection (d) prohibits the court from:

(A) Transferring a juvenile to whom this section applies to adult court to stand trial as an adult as provided in § 37-1-134;

(B) Extending the term of commitment beyond the one-year minimum required by this subsection (d);
or

(C) Any other dispositional alternative more restrictive than this subsection (d).

(3) The offenses to which this subsection (d) applies are:

(A) First degree murder, as prohibited by § 39-13-202;

(B) Second degree murder, as prohibited by § 39-13-210;

(C) Voluntary manslaughter, as prohibited by § 39-13-211;

(D) Criminally negligent homicide, as prohibited by § 39-13-212; and

(E) Reckless homicide, as prohibited by § 39-13-215.

(e)

(1) Notwithstanding this section to the contrary, a juvenile who is adjudicated delinquent for conduct that, if committed by an adult, would constitute one (1) of the offenses set out in subdivision (e)(3) may be committed to the department of children's services for a period of one (1) year.

(2) This subsection (e) does not prohibit the court from:

(A) Transferring a juvenile to whom this section applies to adult court to stand trial as an adult as provided in § 37-1-134;

(B) Extending the term of commitment beyond one (1) year; or

(C) Ordering any other dispositional alternative.

(3) The offenses to which this subsection (e) applies are:

(A) Rape, as prohibited by § 39-13-503;

(B) Aggravated rape, as prohibited by § 39-13-502;

(C) Rape of a child, as prohibited by § 39-13-522; and

(D) Aggravated rape of a child, as prohibited by § 39-13-531.

(f) Notwithstanding this section to the contrary, the court shall prohibit a child who is adjudicated delinquent for conduct that, if committed by an adult, would constitute the offense of aggravated rape, under § 39-13-502, rape, under § 39-13-503, rape of a child, under § 39-13-522, or aggravated rape of a child, under § 39-13-531, from accepting employment or volunteering in any capacity that the child knows or reasonably should know will cause the child to be in close and frequent contact with a minor until the child reaches eighteen (18) years of age. This subsection (f) does not prohibit the child from accepting employment or volunteering in a position that involves incidental contact with minors.

Notwithstanding this section to the contrary, the prohibition required by this subsection (f) must remain in effect until the child attains eighteen (18) years of age, regardless of the other terms of the child's disposition.

History

Acts 1970, ch. 600, § 31; 1979, ch. 143, § 10; 1983, ch. 9, § 2; T.C.A., § 37-231; Acts 1985, ch. 374, §§ 1-3; 1985, ch. 441, § 2; 1989, ch. 278, § 38; 1993, ch. 276, § 2; 1995, ch. 380, § 1; 1996, ch. 815, § 1; 1996, ch. 982, § 1; 1996, ch. 1079, §§ 73, 74, 92, 93; 1997, ch. 500, § 1; 1997, ch. 525, § 1; 2003, ch. 238, § 5; 2005, ch. 57, § 1; 2005, ch. 265, § 1; 2007, ch. 200, § 1; 2007, ch. 314, § 1; 2008, ch. 1052, §§ 1-3; 2009, ch. 160, § 1; 2013, ch. 343, § 1; 2014, ch. 757, § 1; 2016, ch. 600, § 7; 2018, ch. 1025, § 1; 2018, ch. 1052, §§ 22-31; 2019, ch. 313, § 1; 2019, ch. 510, § 6; 2021, ch. 105, § 2; 2021, ch. 319, § 1; 2021, ch. 436, § 2.

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