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PART 1

GENERAL PROVISIONS

37-1-101. Purpose — Jurisdiction — Ensuring compliance with the Indian Child Welfare Act.

(a) This part shall be construed to effectuate the following public purposes:

- (1) Provide for the care, protection, and wholesome moral, mental and physical development of children coming within its provisions;
- (2) Consistent with the protection of the public interest, remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and substitute therefor a program of treatment, training and rehabilitation;
- (3) Achieve the foregoing purposes in a family environment whenever possible, separating the child from such child's parents only when necessary for

such child's welfare or in the interest of public safety;

(4) Provide a simple judicial procedure through which this part is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced;

(5) Provide simple interstate procedures that permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this part; and

(6) Generally deinstitutionalize children who have not been found to be delinquent.

(b) It is the intention of the general assembly in the passage of this part to promulgate laws relative to children that are to be uniform in application throughout the state.

(c) Each of the juvenile courts in all the counties and municipalities of the state as described in § 37-1-102 have all of the jurisdiction, authority, rights, powers and duties prescribed by this part, and any additional jurisdiction, authority, rights, powers or duties conferred by special or private act upon any of the juvenile courts in the state are not intended to be invalidated or repealed by this part, except where inconsistent or in conflict with any provisions of this part.

(d) Whenever a juvenile court conducts a child custody proceeding, as defined in § 36-6-205, the court shall ensure compliance with the Indian Child Welfare Act, compiled in 25 U.S.C. § 1901 et seq.

History.

Acts 1970, ch. 600, §§ 1, 59; 1979, ch. 289, § 1; T.C.A., §§ 37-201, 37-259; Acts 2009, ch. 317, § 1.

Compiler's Notes.

Rules of Juvenile Procedure were adopted by the Supreme Court on February 1, 1983, effective July 1, 1984. See Tennessee Court Rules Annotated.

37-1-102. Chapter and part definitions.

(a) As used in this chapter, any reference to the department of correction is construed to mean the department of children's services, unless the reference is clearly intended to designate the department of correction.

(b) As used in this part, unless the context otherwise requires:

(1) "Abuse" exists when a person under the age of eighteen (18) is suffering from, has sustained, or may be in immediate danger of suffering from or sustaining a wound, injury, disability or physical or mental condition caused by brutality, neglect or other actions or inactions of a parent, relative, guardian or caretaker;

(2) "Administrative hearing" is an action by the judge or magistrate of the juvenile court in conformity with legislative intent in terminating the home placement of a juvenile;

(3) "Adult" means any person eighteen (18) years of age or older;

(4) "Child" means:

- (A) A person under eighteen (18) years of age; or
- (B) A person under nineteen (19) years of age for

the limited purpose of:

(i) Remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition entered prior to the person's eighteenth birthday;

(ii) Remaining under the jurisdiction of the juvenile court for the purpose of being committed, or completing commitment including completion of home placement supervision, to the department of children's services with such commitment based on an adjudication of delinquency for an offense that occurred prior to the person's eighteenth birthday; or

(iii) Remaining under the jurisdiction of the juvenile court for resolution of a delinquent offense or offenses committed prior to a person's eighteenth birthday but considered by the juvenile court after a person's eighteenth birthday with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134;

(C) In no event shall a person eighteen (18) years of age or older be committed to or remain in the custody of the department of children's services by virtue of being adjudicated dependent and neglected, unruly or in need of services pursuant to § 37-1-175, except as provided in 37-5-106(a)(20);

(D) This subdivision (b)(4) shall in no way be construed as limiting the court's jurisdiction to transfer a person to criminal court under § 37-1-134;

(E) A person eighteen (18) years of age is legally an adult for all other purposes including, but not limited to, enforcement of the court's orders under this subsection (b) through its contempt power under § 37-1-158;

(F) No exception shall be made for a child who may be emancipated by marriage or otherwise; and

(G) A person over the age of eighteen (18) shall be allowed to remain under the continuing jurisdiction of the juvenile court for purposes of the voluntary extension of services pursuant to § 37-2-417;

(5) "Commissioner" means commissioner of children's services;

(6) "Court order" means any order or decree of a judge, magistrate or court of competent jurisdiction. A "valid court order" is one that is authorized by law, and any order entered in the minutes of a court of record is presumed to be valid;

(7) "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom temporary legal custody of the child has been given by order of a court;

(8) "Custody" means the control of actual physical care of the child and includes the right and responsibility to provide for the physical, mental, moral and emotional well-being of the child. "Custody," as herein defined, relates to those rights and responsibilities as exercised either by the parents or by a

person or organization granted custody by a court of competent jurisdiction. "Custody" shall not be construed as the termination of parental rights set forth in § 37-1-147. "Custody" does not exist by virtue of mere physical possession of the child;

(9) "Delinquent act" means an act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under subdivision (b)(23)(A)(iii) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony;

(10) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation;

(11) "Department" means the department of children's services;

(12) "Dependent and neglected child" means a child:

(A) Who is without a parent, guardian or legal custodian;

(B) Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child;

(C) Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school;

(D) Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child;

(E) Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law;

(F) Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of such child or others;

(G) Who is suffering from abuse or neglect;

(H) Who has been in the care and control of one (1) or more agency or person not related to such child by blood or marriage for a continuous period of six (6) months or longer in the absence of a power of attorney or court order, and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child;

(I) Who is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity; or

(J)(i) Who has willfully been left in the sole financial care and sole physical care of a related caregiver for not less than eighteen (18) consecu-

tive months by the child's parent, parents or legal custodian to the related caregiver, and the child will suffer substantial harm if removed from the continuous care of such relative;

(ii) For the purposes of this subdivision (b)(12)(J):

(a) A related caregiver shall include the child's biological, step or legal grandparent, great grandparent, sibling, aunt, uncle or any other person who is legally or biologically related to the child; and

(b) A child willfully left with a related caregiver as defined in subdivision (b)(12)(J)(ii)(a) because of the parent's military service shall not be subject to action pursuant to § 37-1-183;

(13) "Detention" means confinement in a secure or closed type of facility that is under the direction or supervision of the court or a facility that is designated by the court or other authority as a place of confinement for juveniles;

(14) "Foster care" means the temporary placement of a child in the custody of the department of children's services or any agency or institution, whether public or private, for care outside the home of a parent or relative, by blood or marriage, of the child, whether the placement is by court order, voluntary placement agreement, surrender of parental rights or otherwise;

(15) "Foster parent" means, for purposes other than § 37-2-414, a person who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care at a private residence for a child or children who have been placed in foster care, or in the case of a child or children placed for adoption, a person who has provided care for the child or children for a period of six (6) months or longer in the absence of a power of attorney or court order;

(16) "Juvenile court" means the general sessions court in all counties of this state, except in those counties and municipalities in which special juvenile courts are provided by law, and "judge" means judge of the juvenile court;

(17) "Nonjudicial days" means Saturdays, Sundays and legal holidays. Nonjudicial days begin at four thirty p.m. (4:30 p.m.) on the day preceding a weekend or holiday, and end at eight o'clock a.m. (8:00 a.m.) on the day after a weekend or holiday;

(18) "Probation" means casework service as directed by the court, as a measure for the protection, guidance and well-being of the child and such child's family. Probation methods shall be directed to the discovery and correction of the basic causes of maladjustment;

(19) "Protective supervision" means supervision ordered by the court of children found to be dependent or neglected or unruly;

(20) "Restitution" means compensation that is accomplished through actual monetary payment to the victim of the offense by the child who committed the offense, or symbolically, through unpaid community service work by the child, for property damage or loss

incurred as a result of the delinquent offense;

(21) "Severe child abuse" means:

(A)(i) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause serious bodily injury or death and the knowing use of force on a child that is likely to cause serious bodily injury or death;

(ii) "Serious bodily injury" shall have the same meaning given in § 39-15-402(d).

(B) Specific brutality, abuse or neglect towards a child that in the opinion of qualified experts has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function adequately in the child's environment, and the knowing failure to protect a child from such conduct;

(C) The commission of any act towards the child prohibited by §§ 39-13-502 — 39-13-504, 39-13-515, 39-13-522, 39-15-302, 39-15-402, and 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child; or

(D) Knowingly allowing a child to be present within a structure where the act of creating methamphetamine, as that substance is identified in § 39-17-408(d)(2), is occurring;

(22) "Shelter care" means temporary care of a child in physically unrestricted facilities; and

(23) "Unruly child" means a child in need of treatment and rehabilitation who:

(A) Habitually and without justification is truant from school while subject to compulsory school attendance under § 49-6-3007;

(B) Habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian or other legal custodian to the degree that such child's health and safety are endangered;

(C) Commits an offense that is applicable only to a child; or

(D) Is away from the home, residence or any other residential placement of the child's parent(s), guardian or other legal custodian without their consent. Such child shall be known and defined as a "runaway".

History.

Acts 1970, ch. 600, § 2; 1973, ch. 81, § 3; 1975, ch. 326, § 1; 1976, ch. 425, § 1; 1977, ch. 87, § 1; 1977, ch. 482, § 1; 1978, ch. 543, § 1; 1978, ch. 704, § 3; 1979, ch. 271, § 1; 1979, ch. 289, § 2; 1980, ch. 796, § 1; 1980, ch. 838, § 3; 1981, ch. 120, § 1; 1981, ch. 316, §§ 1, 3; 1982, ch. 882, § 4; 1982, ch. 934, § 16; 1983, ch. 9, § 1; 1983, ch. 254, § 1; 1983, ch. 435, § 2; T.C.A., § 37-202; Acts 1984, ch. 789, § 5; 1985, ch. 441, § 1; 1985, ch. 478, § 30; 1989, ch. 278, §§ 29, 77; 1990, ch. 988, § 2; 1993, ch. 276, § 1; 1995, ch. 532, §§ 4-6; 1996, ch. 1079, §§ 73, 77-84, 183; 2000, ch. 947, § 8G; 2002, ch. 868, § 1; 2009, ch. 235, § 1; 2009, ch. 411, §§ 5-8, 10; 2010, ch. 1065, § 4; 2011, ch. 158, § 19; 2011, ch. 314, §§ 3, 4; 2011, ch. 486, § 1; 2012, ch. 653, § 1; 2014, ch. 711, § 1.

Compiler's Notes.

Acts 1993, ch. 276, § 4 provided that the amendment by that act shall not affect or apply to any juvenile committed to the department of youth development on or before July 1, 1993, or to the subsequent de novo appeal of such case.

The definition in subdivision (b)(23) shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in former § 37-1-102(b)(21), which read: " 'Unruly child' means a child who: (A) While subject to compulsory school attendance is habitually and without justification truant from school; (B) Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian or other custodian, and is ungovernable; (C) Has committed an offense applicable only to a child; or (D) Is away from the home or residence of his parents or guardians without their consent. Such child shall be known and defined as a 'runaway'; if any of the foregoing is in need of treatment or rehabilitation."

Acts 2009, ch. 235, § 1 directed the code commission to revise appropriate references from "child support referees" and "juvenile referees" to "child support magistrates" and "juvenile magistrates" in the code as supplements are published and volumes are replaced.

Acts 2009, ch. 411, § 12 provided that the act, which amended §§ 36-1-102, 36-1-108, 37-1-102, 37-2-402 and added new § 37-1-183, shall apply to conduct covered by the provisions of the act that occurs on or after July 1, 2009. The eighteen (18) month time period set out in § 37-1-102(b)(12)(J) shall not commence until July 1, 2009.

Acts 2010, ch. 1065, § 5 provided that the act, which added subdivision (b)(4)(G), shall be repealed June 30, 2012. Acts 2012, ch. 653, § 1 repealed Acts 2010, ch. 1065, § 5, effective April 4, 2012.

37-1-103. Exclusive original jurisdiction.

(a) The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this part:

(1) Proceedings in which a child is alleged to be delinquent, unruly or dependent and neglected, or to have committed a juvenile traffic offense as defined in § 37-1-146;

(2) Proceedings arising under §§ 37-1-141 — 37-1-144;

(3) Proceedings arising under § 37-1-137 for the purposes of termination of a home placement;

(4) Prosecutions under § 37-1-412, unless the case is bound over to the grand jury by the juvenile court or the defendant is originally charged with a greater offense of which violation of § 37-1-412 is a lesser included offense;

(5) Proceedings arising under § 49-5-5209(e) [repealed]; and

(6) Proceedings in which a parent or legal guardian is alleged to have violated parental responsibilities pursuant to § 37-1-174.

(b) The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this part:

(1) Proceedings to obtain judicial consent to employment, or enlistment in the armed services of a child, if consent is required by law;

(2) Proceedings under the Interstate Compact for Juveniles, compiled as chapter 4, part 1 of this title; and

(3) Proceedings under the Interstate Compact on the Placement of Children, compiled as chapter 4, part 2 of this title.

(c) Except as provided in subsection (d), when jurisdiction has been acquired under this part, such jurisdiction shall continue until the case has been dismissed, or until the custody determination is transferred to another juvenile, circuit, chancery or general sessions court exercising domestic relations jurisdiction, or until a petition for adoption is filed

regarding the child in question as set out in § 36-1-116(f). 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. This subsection (c) does not establish concurrent jurisdiction for any other court to hear juvenile cases, but permits courts exercising domestic relations jurisdiction to make custody determinations in accordance with this part.

(d)(1) A juvenile court in any county of this state shall have temporary jurisdiction to issue temporary orders pursuant to this section upon a petition on behalf of a child present or residing in that county. Upon being informed that a proceeding pertaining to the same child has been commenced in or a determination pertaining to the same child has been made by a court of a county having prior jurisdiction under this part; provided, that the court having temporary jurisdiction shall immediately notify and attempt to communicate with the court having original jurisdiction regarding the status of the child before issuing any temporary order hereunder, the courts shall coordinate with one another to resolve any jurisdictional issues, protect the best interests of the child, and determine the duration of any order entered by a court pursuant to this section.

(2) A court shall have temporary jurisdiction pursuant to this subsection (d) only in a neglect, dependency or abuse proceeding, a termination of parental rights proceeding or an order of protection pursuant to title 36, pertaining to the child whose matter is before the court when the court determines it is necessary to protect the best interests of that child by action of that court.

(3) Upon notice that a proceeding pertaining to the child has been commenced in a court in a county having prior jurisdiction under this part or upon notice that there is a previous determination pertaining to the child that is entitled to be enforced under this part:

(A) The court exercising temporary jurisdiction shall attempt to communicate with the prior court having jurisdiction and resolve jurisdictional issues and determine whether jurisdiction should transfer to the court exercising temporary jurisdiction;

(B) If jurisdiction is not transferred to the court exercising temporary jurisdiction, the orders of the court exercising temporary jurisdiction shall remain in force and effect until an order is obtained from the court having prior jurisdiction regarding the child;

(C) If jurisdiction is not transferred to the court exercising temporary jurisdiction, the court exercising temporary jurisdiction under this part, either upon motion by a party or on its own, shall enter an order specifying the period of time that the court considers adequate to allow the parties to resume the proceeding in the court having prior jurisdiction under this part; and

(D) If jurisdiction is transferred to the court exercising temporary jurisdiction, all matters