House Criminal Justice Subcommittee Am. #1

Amendment No._____

FILED
Date _____
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Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 1952 House Bill No. 1580*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 3, is amended by adding the following language as a new section:

(a) It is an offense to commit an act of hazing.

(b) As used in this section, "hazing" means the intentional or reckless act by a person acting alone or with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of being initiated into, affiliating with, participating in, or maintaining membership in any fraternity or sorority. Hazing includes, but is not limited to:

(1) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(2) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual;

(3) Activity involving induced consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual; and

(4) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) Hazing does not include customary athletic events or similar contests or competitions.

(d) For purposes of this section, "fraternity" or "sorority" shall not include an organization recognized under title 48, chapter 102, or title 56, chapter 25.

(e) Hazing is a Class C misdemeanor.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it

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AMEND Senate Bill No. 1915 House Bill No. 1883*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-402(16), is amended by adding the following as new subdivisions:

(A) The term "marijuana" does not include oil containing the substance cannabidiol, with less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol, if:

(i) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol; and

(ii) The person in possession of the oil retains:

(*a*) Proof of the legal order or recommendation from the issuing state; and

(*b*) Proof that the person or the person's immediate family member has been diagnosed with intractable seizures or epilepsy by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in the state of Tennessee;

(B) The term "marijuana" does not include cannabis oil containing the substance cannabidiol, with less than six tenths of one percent (0.6%) of tetrahydrocannabinol, including the necessary seeds and plants, when manufactured, processed, transferred, dispensed, or possessed by a four-year public or private institution of higher education certified by the drug enforcement administration located in the state as part of a clinical research study on the treatment of intractable seizures, cancer, or other diseases;

SECTION 2. This act shall take effect at 12:01 a.m. July 1, 2018, the public welfare requiring it.

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Signature of Sponsor

AMEND Senate Bill No. 2261 House Bill No. 2271*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Juvenile Justice Reform Act of 2018."

SECTION 2. Tennessee Code Annotated, Section 37-1-101(a), is amended by adding the following language as a new subdivision:

Provide developmentally appropriate interventions based on current scientific research in related fields, including neuroscience, psychology, sociology, and criminology;

SECTION 3. Tennessee Code Annotated, Section 37-1-102(b)(14), is amended by adding the language "temporary" after the language "means".

SECTION 4. Tennessee Code Annotated, Section 37-1-102(b)(19), is amended by deleting the subdivision in its entirety and substituting instead the following:

(19) "Probation" means casework service as directed by the court and pursuant to this part as a measure for the protection, guidance, and well-being of the child and child's family;

SECTION 5. Tennessee Code Annotated, Section 37-1-102(b), is amended by adding the following language as new, appropriately designated subdivisions and redesignating the existing subdivisions accordingly:

( ) "Evidence-based" means policies, procedures, programs, and practices demonstrated by scientific research to reliably produce reductions in recidivism;

( ) "Financial obligations" means fines, fees, costs, surcharges, child support, or other monetary liabilities ordered or assessed by any court or state or county government, but does not include restitution;

( ) "Positive behavior" means prosocial behavior or progress in a treatment program or on supervision;

( ) "Preliminary inquiry" means the process established by the Rules of Juvenile Practice and Procedure that is used to commence proceedings and to resolve complaints by excluding certain matters from juvenile court at their inception;

( ) "Seclusion":

(A) Means the intentional, involuntary segregation of an individual from the rest of the resident population for the purposes of preventing harm by the child to oneself or others; preventing harm to the child by others; aiding in de-escalation of violent behavior; or serving clinically defined reasons; and

(B) Does not include:

(i) The segregation of a child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines;

(ii) Confinement to a locked unit or ward where other children are present as seclusion is not solely confinement of a child to an area, but separation of the child from other persons;

(iii) Voluntary time-out involving the voluntary separation of an individual child from others, and where the child is allowed to end the separation at will; or

(iv) Temporarily securing children in their rooms during regularly scheduled times, such as periods set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population or within the child's assigned living area;

( ) "Significant injury" means bodily injury, including a cut, abrasion, bruise, burn, or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty, involving:

(A) A substantial risk of death;

(B) Protracted unconsciousness;

(C) Extreme physical pain;

(D) Protracted or obvious disfigurement; or

(E) Protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty;

( ) "Validated risk and needs assessment" means a determination of a child's risk to reoffend and the needs that, when addressed, reduce the child's risk to reoffend through the use of an actuarial assessment tool that assesses the dynamic and static factors that predict delinquent behavior;

SECTION 6. Tennessee Code Annotated, Section 37-1-105(b)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) Receive and examine complaints and charges of delinquency or unruly conduct and conduct a preliminary inquiry;

SECTION 7. Tennessee Code Annotated, Section 37-1-105(b)(5), is amended by deleting the subdivision in its entirety and substituting instead the following:

(5) Take into custody and detain a child who is under such probation officer's supervision or care as a delinquent, unruly, or dependent and neglected child if the probation officer, or other designated officers of the court, have reasonable cause to believe that the child's health or safety is in imminent danger, or that such child may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this part. Such child may be placed in detention or shelter care only if authorized by and in accordance with §§ 37-1-114 and 37-1-115. Except as provided by this part, a probation officer, or other designated officer of the court, does not have the

powers of a law enforcement officer. Such probation officer, or other designated officer of the court, shall not conduct accusatory proceedings under this part against a child who is or may be under such officer's care or supervision; and

SECTION 8. Tennessee Code Annotated, Section 37-1-105(b), is amended by adding the following language as a new subdivision (3) and redesignating the existing subdivisions accordingly:

(3) Receive and examine complaints of dependency and neglect of a child for the purpose of considering the commencement of proceedings under this part;

SECTION 9. Tennessee Code Annotated, Section 37-1-106(b)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) Intake duties including receiving and examining complaints and allegations of delinquency and unruly behavior for the purpose of conducting a preliminary inquiry;

SECTION 10. Tennessee Code Annotated, Section 37-1-110(a), is amended by designating the existing language as subdivision (a)(1); by deleting the second sentence and substituting instead the language "The informal adjustment shall not extend beyond three (3) months from the day commenced, unless extended by the court for an additional period not to exceed a total of six (6) months, and does not authorize the detention of the child if not otherwise permitted by this part."; and by adding the following language as a new subdivision (a)(2):

(2) If the child and the victim agree to restitution, restitution may be paid independently of informal adjustment; however, financial obligations shall not be assessed or collected against a child as part of an informal adjustment pursuant to this section.

SECTION 11. Tennessee Code Annotated, Section 37-1-110, is amended by adding the following language as a new subsection (d):

(d) No admission shall be required as part of informal adjustment or pretrial diversion, and any statements made by the child during the preliminary inquiry, informal

adjustment pursuant to subsection (a), or pretrial diversion pursuant to subsection (b) are not admissible prior to a dispositional hearing.

SECTION 12. Tennessee Code Annotated, Section 37-1-114(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Children alleged to be unruly shall not be detained for more than twenty-four (24) hours, excluding nonjudicial days, unless there has been a detention hearing, and in no event shall such a child be detained for more than seventy-two (72) hours exclusive of nonjudicial days prior to an adjudicatory hearing. Nothing in this subsection (b) prohibits the court from ordering the placement of children in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section.

SECTION 13. Tennessee Code Annotated, Section 37-1-114(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) A child shall not be detained in any secure facility or secure portion of any facility unless:

(A)

(i) There is probable cause to believe the child has committed a delinquent offense constituting:

(*a*) A crime against a person resulting in the serious injury or death of the victim or involving the likelihood of serious injury or death to such victim; or

(*b*) The unlawful possession of a handgun or carrying of a weapon, as prohibited by title 39, chapter 17, part 13;

(ii) There is probable cause to believe the child has committed any other delinquent offense involving the likelihood of

serious physical injury or death, or an offense constituting a felony, violation of probation where there exists a significant likelihood of significant injury or death to others or the child, or violation of aftercare where there exists a significant likelihood of significant injury or death to others or the child, and the child:

(*a*) Is currently on probation and there is probable cause to believe there is a significant likelihood of significant injury or death to others or the child absent detention;

(*b*) Is alleged to be an escapee or absconder from a juvenile facility, institution, or other court-ordered placement; or

(*c*) Has, within the previous twelve (12) months, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious injury or death, or has been adjudicated delinquent by virtue of an offense constituting a felony if committed by an adult;

(iii) There is probable cause to believe the child has committed a violation of the conditions of probation, aftercare, diversion, or pretrial release or similar supervision; provided, that the child may be placed in detention for no more than seventy-two (72) hours, unless the court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety;

(iv) There is probable cause to believe the child has committed a delinquent offense, and special circumstances in accordance with subsection (a) indicate the child should be

detained, and the court finds that the child presents a significant likelihood of significant injury to the child or another person; however, in any such case, the judge shall, within twenty-four (24) hours of the actual detention, excluding nonjudicial days, issue a written order on a form prescribed by the Tennessee council of juvenile and family court judges setting forth the specific reasons necessitating such detention. For children placed in the custody of the department for a dependency or neglect case who are charged with a delinquent offense while in the department's custody, the department's lack of resources or alternative placement options do not qualify as special circumstances for the purposes of this section, and such children must meet the criteria for detention under this section based on their delinquency charges. Nothing in this subdivision (c)(1) shall be construed as requiring a hearing, except as otherwise required by § 37-1-117;

(v) The child is alleged delinquent or has previously been adjudicated delinquent and is alleged to be an escapee from a secure juvenile facility or institution;

(vi) The child is wanted in another jurisdiction for a delinquent offense; or

(vii) There is probable cause to believe the child is an unruly child who is a runaway from another jurisdiction. Any detention of such a child shall be in compliance with subsection (b), unless compliance with the Interstate Compact for Juveniles, as codified in § 37-4-101, requires otherwise; and

(B) In addition to any of the conditions listed in subdivisions (c)(1)(A)(i)-(vii), there is no less restrictive alternative that will reduce the

risk of flight or of serious physical harm to the child or to others, including placement of the child with a parent, guardian, legal custodian, or relative; use of any of the alternatives listed in § 37-1-116(g); or the setting of bail.

(2) For the purposes of this subsection (c), "serious physical injury" includes conduct that would constitute the offenses of aggravated rape, rape, and aggravated sexual battery.

SECTION 14. Tennessee Code Annotated, Section 37-1-114, is amended by adding the following language as new subsections:

(d) Unless otherwise required by law, detention shall not be mandated for categories of offenses or predefined circumstances and instead shall be based on an individualized examination of a child's case and the case's particular circumstances.

(e) Notwithstanding this section:

(1) All delinquent and unruly cases in which a child is in detention or has been placed out of the home by court order shall be heard within thirty (30) days of the date the child was placed outside of the home. For good cause shown, the case may be continued beyond the thirty-day time limit to a date certain as the court may direct. The thirty (30) day time limit may also be waived by a knowing and voluntary written waiver by the child;

(2) A child under twelve (12) years of age shall not be detained in any secure facility or secure portion of any facility for more than twenty-four (24) hours, excluding nonjudicial days, unless the requirements of subsection (b) or (c) are met and:

(A) There is probable cause to believe the child has committed a delinquent offense constituting criminal homicide, as defined in § 39-13-201, or attempted criminal homicide; or

(B) There is a written judicial finding that there is a significant likelihood of significant injury to the child or others if the child is not detained.

SECTION 15. Tennessee Code Annotated, Section 37-1-115, is amended by adding the following language as new subsections:

(c)

(1) A law enforcement officer who has taken a child into custody for the commission of an offense that would be considered a misdemeanor if committed by an adult may, in that officer's professional discretion, issue a citation in lieu of continued custody of the child. In issuing a citation pursuant to this subsection (c), the officer shall:

(A) Prepare a written citation, which shall include the name and address of the cited child, the offense charged, and the time and place of appearance;

(B) Have the child sign the original and duplicate copy of the citation. The officer shall deliver one (1) copy to the child and retain the other; and

(C) Release the cited child from custody.

(2) If the law enforcement officer determines that issuing a citation is appropriate but that circumstances surrounding the issuance of a citation indicate an immediate risk to the safety of the child, the officer shall make efforts to contact a parent, guardian, or legal custodian of the child to retrieve the child in lieu of or prior to taking the child into custody.

(d) Subject to the approval of the juvenile court, each municipal or metropolitan police department or sheriff's department is authorized to create and administer its own juvenile diversion program to address citable juvenile offenses without court involvement. Each program shall be developed in consultation with the juvenile court,

local school districts, and other community stakeholders, and shall be subject to the same conditions and limitations as informal adjustment pursuant to § 37-1-110.

SECTION 16. Tennessee Code Annotated, Section 37-1-116, is amended by adding the following language as a new subsection (l):

(l) The use of seclusion for punitive purposes pre-adjudication or post-adjudication for any child detained in any facility pursuant to § 37-1-114 is prohibited.

SECTION 17. Tennessee Code Annotated, Section 37-1-117(a)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(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. The filing of a petition shall not preclude participation in informal adjustment pursuant to § 37-1-110. 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 or on the child's own recognizance subject to a written agreement to appear in court.

SECTION 18. Tennessee Code Annotated, Section 37-1-120, is amended by adding the following language as new subsections:

(e) School personnel may file a juvenile petition against a student receiving special education services only in accordance with the manifestation determination requirements of § 49-10-1304(d)(3)(B).

(f)

(1) Absent serious threats to school safety or exceptional circumstances in the judgment of a law enforcement officer, when a delinquency or unruly

petition is filed by school personnel based upon acts committed on school grounds or at a school-sponsored event, the school personnel shall include information in the petition that shows that:

(A) School personnel have sought to resolve the problem through available educational approaches; and

(B) Court intervention is needed in the judgment of the petitioner.

(2) School personnel shall seek to engage parents, guardians, or legal custodians in resolving the child's behavior before filing a petition where appropriate under the circumstances.

SECTION 19. Tennessee Code Annotated, Section 37-1-122, is amended by deleting the section in its entirety and substituting instead the following:

(a) After the petition has been filed, the clerk shall schedule a time for a hearing and issue summonses to the parties. In case a summons cannot be served or the party served fails to obey the same, and in any case where it is made to appear to the court that such summons will be ineffectual, except as described in subsection (b), an attachment may issue, on the order of the court, against the:

(1) Parent or guardian;

(2) Person having custody of the child;

(3) Person with whom the child may be; or

(4) Child.

(b)

(1) An attachment for a violation of conditions or limitations of probation pursuant to § 37-1-131 or § 37-1-132, home placement supervision pursuant to § 37-1-137, or diversion pursuant to § 37-1-110 or § 37-1-129 shall not issue unless:

(A) The child poses a significant likelihood of significant injury to another person or significant likelihood of damage to property;

(B) The child cannot be located by the supervising person, persons, or entity after documented efforts to locate the child by the supervising person, persons, or entity; or

(C) The child fails to appear for a court proceeding.

(2) If the child has an attorney of record, that attorney must be served with any attachment request made to the court.

SECTION 20. Tennessee Code Annotated, Section 37-1-126(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) Parents, legal custodians, or guardians, or any adult defendants or respondents whose child is provided with court-appointed counsel pursuant to this section, or who themselves are provided with court-appointed counsel pursuant to this section, may be assessed by the court at the time of appointment a nonrefundable administrative fee in the amount of fifty dollars ($50.00). The parents, legal custodians, or guardians of a child who is appointed a guardian ad litem may be assessed by the court an administrative fee as provided in this subdivision (c)(1).

(2) The administrative fee shall be assessed only one (1) time per case and shall be waived or reduced by the court upon a finding that the child and the child's parents, legal custodians, or guardians lack financial resources sufficient to pay the fee in such amount. In cases where a guardian ad litem is appointed, the financial resources of the child shall not be considered. The fee may be increased by the court to an amount not in excess of two hundred dollars ($200) upon a finding that the child's parents, legal custodians or guardians, or an adult defendant or respondent possesses sufficient financial resources to pay the fee in such increased amount. The administrative fee shall be payable, at the court's discretion, in a lump sum or in installments; provided, that the fee shall be paid

prior to disposition of the case or within two (2) weeks of appointment of counsel, whichever first occurs. Prior to disposition of the case, the clerk of the court shall inform the judge whether the administrative fee has been collected. Failure to pay the administrative fee assessed by the court shall not reduce or in any way affect the rendering of services by court-appointed counsel. The administrative fee shall not be assessed against the child.

(3) The administrative fee shall be separate from, and in addition to, any other contribution or recoupment assessed pursuant to law for defrayal of costs associated with the provision of court-appointed counsel. The clerk of the court shall retain a commission of five percent (5%) of each dollar of administrative fees collected and shall transmit the remaining ninety-five percent (95%) of each such dollar to the state treasurer for deposit in the state's general fund.

(4) If the administrative fee is not paid prior to disposition of the case, then the fee shall be collected in the same manner as costs are collected; provided, that upon disposition of the case, moneys paid to the clerk, including any cash bond posted by or on behalf of a child who has been transferred or is awaiting a transfer hearing pursuant to § 37-1-134 or an adult, shall be allocated to taxes, costs, and fines and then to the administrative fee and any recoupment ordered. The administrative fee and any recoupment or contribution ordered for the services of court-appointed counsel may apply and may be collected even if the charges against the party are dismissed. The court shall have discretion to waive the administrative fee if the case is dismissed.

(5) As part of the clerk's regular monthly report, each clerk of court, who is responsible for collecting administrative fees pursuant to this section, shall file a report with the court, the administrative director of the courts, and the comptroller of the treasury. The report shall indicate the following:

(A) Number of children and adults for whom the court appointed counsel pursuant to this section;

(B) Number of children for whom the court appointed a guardian ad litem pursuant to § 37-1-149;

(C) Number of children and adults for whom the court appointed counsel and waived the administrative fee;

(D) Number of children for whom the court appointed a guardian ad litem and waived the administrative fee;

(E) Number of children and adults from, or on behalf of, whom the clerk collected administrative fees;

(F) Total amount of commissions retained by the clerk from such administrative fees; and

(G) Total amount of administrative fees forwarded by the clerk to the state treasurer.

SECTION 21. Tennessee Code Annotated, Section 37-1-128(a)(1)(A), is amended by deleting the subdivision in its entirety and substituting instead the following:

Make an investigation of the case or conduct a preliminary inquiry if one has not already been conducted;

SECTION 22. Tennessee Code Annotated, Section 37-1-128(a)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) A probation officer shall have, as to any child committed to such officer's care, the powers of a law enforcement officer. Subject to this part, the probation officer may bring such child before the court committing the child to the officer's care for further action as the court may deem fit and proper.

SECTION 23. Tennessee Code Annotated, Section 37-1-129(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a)

(1) If a child alleged to be delinquent or unruly enters a plea of guilty or no contest, the court may defer further proceedings and place the child on probation subject to reasonable conditions, which may include completion of substance abuse and mental health treatment services where appropriate, without entering a judgment of guilty and with the consent of the child, and, for delinquent offenses, such reasonable conditions shall be consistent with a validated risk and needs assessment. Probation conditions shall not include a period of detention or placing the child in custody of the department, but may include a transfer or grant pursuant to § 37-1-131(a)(1). A child shall not be placed on judicial diversion if the delinquent act alleged is an offense described in § 37-1-153(b) or if the child has previously been adjudicated delinquent for such an offense.

(2) A judicial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court, subject to this subdivision (a)(2). Before expiration of the six-month period, and after notice and a hearing, the court may extend judicial diversion for an additional period not to exceed six (6) months, but only if the court finds and issues a written order that:

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

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

(3)

(A) If the supervising authority finds that the child has violated the terms or conditions of judicial diversion, the supervising authority may file a petition alleging a violation of the terms or conditions of judicial diversion 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.

(B) If a violation of any of the terms of judicial diversion probation is alleged, the child shall be given notice of the violation and an opportunity to be heard concerning the alleged violation. If, after a hearing, the court determines that a violation has occurred, the court may enter an adjudication of guilty and proceed to a dispositional hearing. If no violation is found, the court may continue the period of probation or may dismiss the petition.

(4) If, during the period of probation, the child does not violate any of the conditions of the probation, then upon expiration of the period, the court shall discharge the child and dismiss the proceedings against the child.

SECTION 24. Tennessee Code Annotated, Section 37-1-129(b)(3), is amended by adding the following language at the end of the subdivision:

The court shall minimize the use of detention between adjudication and disposition. In no event shall a dispositional hearing be postponed or continued because there is a waitlist for a suitable placement unless the child and, if applicable, the child's attorney, agree to the postponement or continuance in writing.

SECTION 25. Tennessee Code Annotated, Section 37-1-131, is amended by deleting subdivision (a)(5) and by deleting subdivision (a)(1) and substituting instead the following:

(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;

SECTION 26. Tennessee Code Annotated, Section 37-1-131(a)(2)(A), is amended by deleting the subdivision in its entirety and substituting instead the following:

(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 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 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;

(*c*) The child is detained pursuant to § 37-1-114(c)(1); or

(*d*)

(*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)*(d)* 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;

SECTION 27. Tennessee Code Annotated, Section 37-1-131(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) Ordering the child to participate in programming at a non-residential facility for delinquent children operated under the direction of the court or other local public authority;

SECTION 28. Tennessee Code Annotated, Section 37-1-131(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(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;

SECTION 29. Tennessee Code Annotated, Section 37-1-131(a)(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

(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;

SECTION 30. Tennessee Code Annotated, Section 37-1-131(a)(7), is amended by adding the following language as a new subdivision (F):

(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

SECTION 31. Tennessee Code Annotated, Section 37-1-131(b)(1), is amended by adding the following language at the end of the subdivision:

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.

SECTION 32. Tennessee Code Annotated, Section 37-1-131(b)(2)(A)(iii), is amended by deleting the subdivision in its entirety and substituting instead the following:

(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;

SECTION 33. Tennessee Code Annotated, Section 37-1-131(b)(5), is amended by deleting the subdivision in its entirety and substituting instead the following:

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.

SECTION 34. Tennessee Code Annotated, Section 37-1-131(c)(6), is amended by deleting the subdivision in its entirety.

SECTION 35. Tennessee Code Annotated, Section 37-1-132(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) If the child is found to be an unruly child, the court may make such disposition as authorized by this section or § 37-1-131(a)(1), (a)(2), (a)(7), or (b) that is best suited to such child's treatment. However, no child found to be an unruly child may be placed on probation under the supervision of the department, unless such child is found to also be a delinquent child or is found to have committed a violation of a valid court order as provided for in the Appendix to the Tennessee Rules of Juvenile Procedure. No county government shall be required to increase local funding to implement this provision. The court has the additional dispositional alternative of ordering the department to provide non-custodial services to a child found to be unruly.

SECTION 36. Tennessee Code Annotated, Section 37-1-132(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) An unruly child is eligible for commitment to the department only if:

(A) The child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute an unruly offense, or 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

(B)

(i) 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.

(ii) A child placed in the custody of the department under this subdivision (b)(1)(B) 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 treatment or services that are available only if the child is in custody; and

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

(2) Nothing in subdivision (b)(1) shall preclude placing a child in protective service custody.

(3) A disposition under this section 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.

(4) Subject to subdivision (b)(6), an unruly child committed to the custody of the department under subdivision (b)(1)(A) for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months, excluding any amount of time that a child is absent from placement for whatever reason, unless:

(A) The treatment and rehabilitation of the child require that the child remain in custody beyond six (6) months to complete an evidence-based

program in a custodial setting addressing a treatment need identified by the previously administered validated risk and needs assessment;

(B) The child is alleged to have committed a new delinquent act; or

(C) The child is alleged to be an escapee from a secure juvenile facility or institution.

(5) The commissioner shall prescribe procedures whereby the child's treatment, rehabilitation, and progress shall be reviewed monthly and a recommendation for or against home placement or discharge shall be made to the commissioner or the commissioner's designee at least quarterly.

(6)

(A) 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 being held at the earliest possible date. If a 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 thirty (30) days.

(B) If during the thirty-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, 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 is for the court's permission to make a non-emergency removal.

(C) During the thirty-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.

SECTION 37. Tennessee Code Annotated, Section 37-1-132(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) A child ordered to probation under subsection (a) may be placed on probation for a maximum period of six (6) months, subject to this subdivision (c)(1). 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:

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

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

(2) If the requirements of subdivision (c)(1) 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.

(3) 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.

(4) 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.

(5) 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 needs of the child, including ordering a transfer or grant pursuant to § 37-1-131(a)(1). 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 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 § 37-1-131 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;

(C) The child is detained pursuant to § 37-1-114(c)(1); or

(D)

(i) 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.

(ii) A child placed in the custody of the department under this subdivision (c)(5)(D) 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 treatment or services that are available only if the child is in custody; and

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

SECTION 38. Tennessee Code Annotated, Section 37-1-132, is amended by adding the following language as a new subsection:

(d) If a child is adjudicated unruly in whole or in part for habitual and unlawful absence pursuant to § 49-6-3007, it is the intent of the general assembly that any disposition of the court be oriented toward family services and those interventions that address educational barriers and the root causes of truancy.

SECTION 39. Tennessee Code Annotated, Section 37-1-134(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) The child was less than fourteen (14) years of age at the time of the alleged conduct and charged with first degree murder or second degree murder or attempted first or second degree murder, or the child was fourteen (14) years of age or more at the time of the alleged conduct and charged with the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, aggravated burglary, especially aggravated burglary, kidnapping, aggravated kidnapping, especially aggravated kidnapping, commission of an act of terrorism, carjacking, or an attempt to commit any such offenses. The district attorney general shall not seek, nor shall any child transferred under this section receive, a sentence of death for the offense for which the child was transferred;

SECTION 40. Tennessee Code Annotated, Section 37-1-134, is amended by adding the following language as a new subsection:

(l) It is the intent of the general assembly that children shall not be transferred under this section due to a lack of appropriate resources for effective treatment and rehabilitation in the juvenile justice system.

SECTION 41. Tennessee Code Annotated, Section 37-1-136(h), is amended by deleting the subsection in its entirety and substituting instead the following:

(h) This section shall apply to any assessment report or materials used in the creation of an assessment report in juvenile courts located in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, and this section may be adopted by the juvenile court in any county and applied to any assessment report or materials used in the creation of an assessment report in juvenile court.

SECTION 42. Tennessee Code Annotated, Section 37-1-137(a)(5), is amended by designating the existing language as subdivision (a)(5)(A) and adding the following as a new subdivision (a)(5)(B):

(B) If the department places a child in detention for more than thirty (30) days pending placement, excluding nonjudicial days, the department shall notify the committing court and, upon the court's written request, provide information to the court outlining the department's efforts to place the child.

SECTION 43. Tennessee Code Annotated, Section 37-1-137(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) Subject to subsection (c), a delinquent child committed to the custody of the department for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months, excluding any amount of time that a child is absent from placement for whatever reason, unless:

(A) The treatment and rehabilitation of the child require that the child remain in custody beyond six (6) months to complete an evidence-based

program in a custodial setting addressing a treatment need identified by the previously administered validated risk and needs assessment;

(B) The child is alleged to have committed a new delinquent act; or

(C) The child is alleged to be an escapee from a secure juvenile facility or institution.

(2) The commissioner shall prescribe procedures whereby the child's treatment, rehabilitation, and progress shall be reviewed monthly and a recommendation for or against home placement or discharge shall be made to the commissioner or the commissioner's designee at least quarterly.

SECTION 44. Tennessee Code Annotated, Section 37-1-137(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(1)

(A) If the designee of the department supervising a delinquent child on home placement supervision has reasonable cause to believe that such child has violated the conditions of home placement supervision in an important respect after the trial home pass has ended, the designee may file a petition alleging a violation of home placement supervision; provided, that, unless a new petition has been filed alleging the child has committed a new delinquent offense or habitual and unlawful absence pursuant to § 49-6-3007, the court, in its discretion, may direct the designee that, in some or all circumstances, such a petition should be filed only if the designee 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.

(B) The court may require that the child be placed in detention pending adjudication of the petition, but only in accordance with § 37-1-114. The department is prohibited from taking the child into custody until the court finds that the child has violated conditions of the home placement supervision by

incurring an adjudication of delinquency for a new offense that meets the eligibility criteria for commitment to the department under § 37-1-131(a)(4) and the court terminates the home placement supervision. Nothing in this subdivision (d)(1) shall prevent the transfer of a juvenile under § 37-1-134.

(2) No such court permission is required during the trial home pass and the department is authorized to remove the child from the home, but only if the child cannot be located by the designee after documented efforts to locate the child or a new petition has been filed alleging the child has committed a delinquent offense arising from a separate incident from the original petition. A notice of such removal and disruption of the trial home pass shall be filed with the court within ten (10) days as a violation allegation or other appropriate petition or motion and the legal custody of the department is not terminated. A review hearing on such action shall be held within thirty (30) days of such filing. Nothing in this subdivision (d)(2) shall prevent the transfer of a juvenile under § 37-1-134.

SECTION 45. Tennessee Code Annotated, Section 37-1-137(e), is amended by deleting the subsection in its entirety and substituting instead the following:

(e) The juvenile court that committed the delinquent child to the department retains jurisdiction to determine allegations of violation of home placement supervision. Such court shall schedule a hearing within seven (7) days of the time the petition is filed alleging a violation of home placement supervision and cause written notice to be served on the child, the child's parent or parents, guardian, or other custodian, and the department's designee a reasonable time before the hearing. The written notice shall contain a copy of the petition and any other written report or statement detailing the violation or violations as well as the time, place, and purpose of the hearing. At the hearing, the court shall allow the child to be heard in person and to present witnesses or documentary evidence. The child shall also have the right to confront and cross-examine witnesses.

SECTION 46. Tennessee Code Annotated, Section 37-1-137(f), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of home placement.

(2) If the court finds that a violation occurred because the child has been adjudicated for a new offense eligible for commitment to the department under § 37-1-131(a)(4), the court may order that the child be re-committed to the department or utilize any other disposition option permitted by law. Such order shall contain the reasons relied on for terminating the home placement. Upon any such termination and commitment to the department, the child may be placed as the commissioner or the commissioner's designee may direct.

(3)

(A) If the court finds that a violation occurred but the child has not been adjudicated for a new offense that is eligible for commitment to the department, the court may modify conditions of home placement consistent with the results of the previously administered validated risk and needs assessment, including ordering a transfer or grant pursuant to § 37-1-131(a)(1), but shall not order that the child be re-committed to the department or otherwise remove the child from the child's home, including the home of a parent, guardian, or other legal custodian, unless 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.

(B) A child placed in the custody of the department under this subdivision (f)(3) 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:

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

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

(4) The child may appeal the disposition of the court as provided in § 37-1-159.

SECTION 47. Tennessee Code Annotated, Section 37-1-146(b)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) Impose a fine of not more than fifty dollars ($50.00) against the child's parent or legal guardian; or

SECTION 48. Tennessee Code Annotated, Section 37-1-146(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) In any case or class of cases, the judge of any juvenile court may waive jurisdiction of traffic violators who are sixteen (16) years of age or older, and such cases shall be heard by the court or courts having jurisdiction of adult traffic violations, or the child's parent or legal guardian may pay the stipulated fine to a traffic bureau.

SECTION 49. Tennessee Code Annotated, Section 37-1-150(g)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) In proceedings where the child is determined to be indigent pursuant to § 37-1-126 and the court appoints counsel or a guardian ad litem to represent the child, but finds the child's parents, legal custodians, or guardians are financially able to defray a portion or all of the cost of the child's representation, the court shall enter an order directing the child's parents, legal custodians, or guardians to pay into the registry of the clerk of the court any sum that the court determines the child's parents, legal custodians, or guardians are able to pay.

SECTION 50. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

Use of Detention.

Detention shall be used only for those circumstances expressly authorized by the provisions of this part and shall not be ordered as a disposition under § 37-1-131(a) or § 37-1-132, and neither a child nor that child's attorney may waive the detention-related prohibitions of those provisions, including as part of any pre-adjudication agreements.

SECTION 51. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

Financial Obligations.

(a) Financial obligations shall not be assessed against a child in a delinquent or unruly case, including in any order of disposition under § 37-1-131 or § 37-1-132, though this does not affect the assessment of restitution pursuant to § 37-1-131(b). However, the court may order parents, legal custodians, or guardians to pay financial obligations in accordance with the provisions of this part. Restitution to any victim shall be prioritized over all financial obligations.

(b) Failure to pay or timely pay any financial obligations or restitution assessed to the child or the child's parents, guardian, or legal custodian shall not serve as a sole basis for continued court jurisdiction over or supervision of a child.

(c) Failure to pay or timely pay any financial obligations or restitution assessed to the child, child's parents, legal custodians, or guardians shall not serve as a basis for placement in the custody of the department or other removal of the child from the child's home, including the home of a parent, guardian, or legal custodian, for any length of time.

(d) The court shall consider the child's parents, legal custodians, or guardians' financial ability to pay in determining the amount of any financial obligations incurred or assessed by the state or county as described in this part. The court may decline to

assess financial obligations if the court determines that assessment would pose financial hardship to the parents, legal custodians, or guardians.

(e) Any financial obligations ordered shall not be referred to any collection service as defined by § 62-20-102.

SECTION 52. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

Risk and Needs Assessment.

(a) A validated risk and needs assessment shall be used in all delinquent cases post disposition in making decisions and recommendations regarding programming and treatment.

(b) The department may make available a validated tool for use by any juvenile court; however, any juvenile court may instead choose to use a different validated tool.

(c) Any risk and needs assessment tool that is adopted by a juvenile court or the department must periodically undergo a validation study to ensure that the risk and needs assessment is predictive of the risk of reoffending of the population on which the tool is being administered.

(d) Each delinquent child ordered to probation supervision under § 37-1-131 or committed to the custody of the department shall undergo a validated risk and needs assessment within seven (7) days of the court's disposition, excluding nonjudicial days, to inform supervision level, referrals to programs and services, and case planning.

(e) In delinquent cases, the court may order that a risk and needs assessment be conducted prior to disposition if there is written agreement from the child, the child's parent, guardian, or legal custodian, and, if applicable, the child's attorney. A child may undergo such a risk and needs assessment prior to disposition to identify specific factors that predict a child's likelihood of reoffending and, when appropriately addressed, may reduce the likelihood of reoffending, and the results of the risk and needs assessment shall be provided to the court prior to or at the time of the disposition of the child.

SECTION 53. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

Individualized Case Plans and Behavior Responses.

(a) An individualized case plan shall be developed by the department or supervising authority for every child adjudicated for a delinquent or unruly offense. The case plan shall be updated as appropriate and, in the case of a delinquent offense, shall be informed by the results of a validated risk and needs assessment.

(b)

(1) For any child ordered to probation supervision pursuant to § 37-1-131 or § 37-1-132, the supervising authority shall develop and implement an individualized case plan in consultation with the child's parents, guardian, or legal custodian, the child's school, and other appropriate parties, and, for delinquent offenses, such plan shall be based upon the results of a validated risk and needs assessment conducted within seven (7) days of the court's disposition, excluding nonjudicial days.

(2) The person or persons supervising probation shall work with the child and the child's parents, guardian, or legal custodian, and other appropriate parties to implement the case plan following disposition.

(3) At a minimum, the case plan shall:

(A) Identify the actions to be taken by the child and, if appropriate, the child's parents, guardian, or legal custodian, and other appropriate parties to ensure future lawful conduct and compliance with the court's order of disposition; and

(B) Identify the services to be offered and provided to the child and, if appropriate, the child's parents, guardian, or legal custodian, and other appropriate parties, including, where appropriate:

(i) Mental health and substance abuse services;

(ii) Education services;

(iii) Individual, group, and family counseling services;

(iv) Victim or community restitution; and

(v) Services to address other relevant concerns identified by the supervising authority.

(c)

(1) For any child committed to the department for a delinquent offense, the department shall ensure, in conjunction with any service provider, that it develops and implements an individualized case plan based upon the recommendations of the child, the child's parents, guardian, or custodian, and other appropriate parties and the results of the validated risk and needs assessment. The case plan shall cover the child's period of commitment to the department as well as home placement supervision.

(2) The department shall work with the child, the child's parents, guardian, or legal custodian, other appropriate parties, and the child's service provider to implement the case plan.

(3) At a minimum, the case plan shall:

(A) Specify treatment goals and the actions to be taken by the child in order to demonstrate satisfactory attainment of each goal;

(B) Specify the services to be offered and provided by the department and any service provider; and

(C) Ensure appropriate reintegration of the child to the child's parents, guardian, or legal custodian, other appropriate parties, the child's school, and the community following the satisfactory completion of the case plan treatment goals, with a protocol and timeline for engaging the child's parents, guardian, or legal custodian prior to the release of the child.

(d) The department and each juvenile court providing supervision services shall adopt a behavior response system that incorporates the following principles:

(1) Behavior responses to children on all types of supervision should be swift, certain, and proportionate and provide for a continuum of options to address violations of the terms and conditions of supervision as well as incentivize positive behaviors on supervision; and

(2) Behavior responses should be targeted to the child's risk and needs and to the severity of the violation of the terms and conditions of supervision.

(e) The behavior response system shall be utilized by all supervising authorities involved in the juvenile justice system and in administering behavior responses on probation, home placement supervision, diversion, or any other type of supervision. The supervising authorities shall use the least restrictive behavior responses, and all violations and positive behaviors shall be documented in the child's individual case plan within three (3) days of occurrence, excluding nonjudicial days, including the type of violation or positive behavior, the response, and the results of the response.

SECTION 54. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

Provider Performance Metrics.

(a) The department shall develop a system of performance-based metrics and incentives to use with the state institutions, foster and group homes, and any other entities, public or private, that are authorized by law to receive or provide care or services for children under this part.

(b) These metrics and incentives should encourage use of graduated responses, evidence-based programming, and an intended timeline of three (3) to six (6) months for successful program completion.

SECTION 55. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

Report on Juvenile Justice Data Collection.

The administrative office of the courts, the department of children's services, and the commission on children and youth shall jointly submit a report addressing statewide data collection in the juvenile justice system, on or before January 1, 2019, to the governor, speaker of the senate, and speaker of the house of representatives. Appropriate school and law enforcement personnel shall be consulted in preparing the report. This report shall include:

(1) A plan to effectuate comprehensive, accurate collection of data and performance measures from all juvenile courts in the state pursuant to § 37-1-506 and other relevant statutory provisions;

(2) Uniform definitions and criteria for data collection to ensure clear and consistent reporting across all agencies and counties;

(3) Proposed forms for future data collection from juvenile courts and county-level agencies; and

(4) Any other recommendations relevant to improving statewide data collection in the juvenile justice system.

SECTION 56. Tennessee Code Annotated, Section 37-1-506(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) The clerk of each juvenile court shall, each month, report to the executive secretary such information as the council may require concerning cases handled by such court, including, but not limited to, informal adjustments, appointment of counsel, pretrial diversions, and all other dispositions made by the court. Notwithstanding § 37-1-153 or any other law to the contrary, the council may require identifying information to be reported in order that the council may more accurately track recidivism rates and other pertinent trends relating to juveniles. Notwithstanding any law to the contrary, identifying information received by the council shall be confidential; shall not be published, released, or otherwise disseminated; and shall be maintained in accordance with state

and federal laws and regulations regarding confidentiality. The council shall publish data and make such data available to properly concerned agencies and individuals, or to any person upon request. Any such publication or release of data shall be limited to non-identifying information. The council shall develop guidelines and procedures to expunge identifying information collected on juveniles; provided, that such expunction shall occur only after the juvenile reaches the age that is beyond jurisdiction of the juvenile court.

SECTION 57. Tennessee Code Annotated, Section 37-5-121(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) "Evidence-based" means policies, procedures, programs, and practices demonstrated by scientific research to reliably produce reductions in recidivism;

SECTION 58. Tennessee Code Annotated, Section 39-17-1505, is amended by deleting subsections (b) and (c) in their entireties and substituting instead the following:

(b) Any person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), which may be charged against a parent, guardian, or custodian, but not a minor. The juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period.

SECTION 59. It is the intent of the general assembly that improvements to the juvenile justice system and expansion of community-based resources for justice-involved children be prioritized, including, but not limited to, evidence-based programs, informal adjustment, diversion, home placement supervision, statewide data collection, early intervention programs

and services for children and families, and mental health services, especially in any county underserved with such programs and services.

SECTION 60. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 61. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 62. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. Sections 55, 59, 60, and 61 of this act shall take effect upon becoming a law, the public welfare requiring it. Sections 13, 23, 25-29, 35-37, 43, 44, 46, 50, 52, and 53 of this act shall take effect July 1, 2019, the public welfare requiring it. Section 42 of this act shall take effect October 1, 2019, the public welfare requiring it. All other sections of this act shall take effect July 1, 2018, the public welfare requiring it.