

HOUSE BILL 1740

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 1, Part 1, relative to sentencing.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-102(b)(4)(B), is amended by deleting the language "nineteen (19)" and substituting instead the language "twenty-five (25)".

SECTION 2. Tennessee Code Annotated, Section 37-1-102(b)(4), is amended by adding the following language as a new subdivision:

(H) Notwithstanding this subdivision (b)(4), the court may retain post dispositional jurisdiction pursuant to § 37-1-131(a)(9) for any child found delinquent under § 37-1-131.

SECTION 3. Tennessee Code Annotated, Section 37-1-131(a), is amended by adding the following as a new subdivision:

(9)

(A) If, pursuant to § 37-1-134(c)(2), the child is found delinquent or pleads guilty to an offense listed in § 37-1-134(a)(1), the court may retain jurisdiction over the child until the child's twenty-fifth birthday. The court may impose any sentence upon the child that could be placed upon the child if the child had been convicted as an adult. The court shall stay any portion of the sentence that goes beyond the child's twenty-fifth birthday pending completion of requirements set forth by the court at the time of disposition.

(B)

(i) At any time prior to the child's twenty-fifth birthday, a petition may be filed requesting the court find that the child has completed all

requirements under the disposition order and that the child be placed or released in a manner consistent with subdivision (a)(9)(C)(i) or (ii).

(ii) The request shall:

(a) Be made before the judge, or the judge's successor, of the juvenile court in which the original commitment occurred;

(b) State the reason for recommending the placement or release; and

(c) Make specific recommendations as to where the child will be placed.

(iii) A copy of the request shall be supplied to the appropriate district attorney general.

(iv) If, on review of the record, the court is of the opinion that the request is well-taken and the district attorney general has no objection, the judge may order the release or placement without a hearing.

Otherwise, the court shall schedule a hearing within fifteen (15) days of the receipt of the request.

(v) At a hearing scheduled pursuant to subdivision (a)(9)(B)(iv), the department, the juvenile offender, the victim, and the state shall be given an opportunity to be heard in support or opposition of any proposed placement or release. Each party may subpoena witnesses to testify on any issue raised by the proposed placement or release. The court may make sure orders pertaining to continued commitment, home placement, probation, or release as the court determines, are justified under the proof produced at the hearing.

(C) Within thirty (30) days of the child's twenty-fifth birthday, the court shall hold a hearing to determine the status of the child. At that hearing the court shall make one (1) of the following determinations:

(i) That the child shall be released on the child's twenty-fifth birthday with no other conditions;

(ii) That the child shall be released and placed on probation pursuant to conditions in § 40-35-303; or

(iii) That the child shall serve any remainder of the sentence as ordered by the court.

SECTION 4. Tennessee Code Annotated, Section 37-1-134(c), is amended by designating the existing language as subdivision (c)(1) and by adding the following language as a new subdivision (c)(2):

If the court makes a determination required under subsection (a), but finds that transfer is not appropriate under subsection (b), the state may petition the matter to be adjudicated under § 37-1-131(a)(9).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.