

HOUSE BILL 2805

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)(5), is amended by adding the following new subdivision (b)(5)(C) and redesignating the current subdivision (b)(5)(C) and subsequent subdivisions accordingly:

(C) A person under twenty-five (25) years of age for the limited purpose of participating in the pilot program established by § 37-1-131(a)(9);

SECTION 2. Tennessee Code Annotated, Section 37-1-102(b)(5), is amended by adding the following language as a new subdivision:

(H) Notwithstanding this subdivision (b)(5), the court may retain post dispositional jurisdiction pursuant to § 37-1-131(a)(9) for a 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), a 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 and order the child to participate in the pilot program established by this subdivision (a)(9). Under the pilot program, the court may impose a sentence upon the child that could be imposed if the offense was committed by an adult. Any portion of the disposition imposed that extends prior to the child's twenty-fifth birthday must be stayed

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 original 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 must:

(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 with respect to the child's placement;

(iii) A copy of the request must 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, then the judge may order the release or placement without a hearing. Otherwise, the court shall schedule a hearing within fifteen (15) days of the court's 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 must be given an opportunity to be heard in support or opposition of a proposed

placement or release. Each party may subpoena witnesses to testify on an issue raised by the proposed placement or release. The court may ensure that orders pertaining to continued commitment, home placement, probation, or release as the court determines, are justified by 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 must be released on the child's twenty-fifth birthday with no other conditions;

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

(iii) That the child must serve any remainder of the sentence as ordered by the court;

(D) The pilot program created by this subdivision (a)(9) must be implemented in a county in which an authorizing resolution is approved by the county legislative body by two-thirds (2/3) majority and must be paid for by local or grant funding.

(E) A county that approves the pilot program pursuant to subdivision (a)(9)(D) shall submit a yearly report to the chairs of the judiciary committee of the senate and the criminal justice committee of the house of representatives detailing the number of persons sentenced pursuant to the pilot program, the cost of implementing the program, and other relevant information with regard to the pilot program.

SECTION 4. Tennessee Code Annotated, Section 37-1-134(c), is amended by designating the existing language as subdivision (c)(1) and 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), then the state may submit a petition requesting that the matter be adjudicated under § 37-1-131(a)(9).

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