

HOUSE BILL 749

By Powell

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 21; Title 16, Chapter 20; Title 37, Chapter 11; Title 37, Chapter 5; Title 37, Chapter 1; Title 40, Chapter 24; Title 40, Chapter 14; Title 49, Chapter 6; Title 55, Chapter 10; Title 57, Chapter 5; Title 62, Chapter 38 and Title 67, Chapter 4, relative to youth involved in the justice system.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-102(b), is amended by adding the following as new subdivisions:

() "Relevant matter" means a matter involving:

(A) Adjudication of a youth as delinquent or unruly under juvenile court jurisdiction;

(B) Criminal prosecution of any defendant who is a youth; or

(C) A non-traffic violation of a municipal code by a youth;

() "Youth" means an individual who is:

(A) Under the jurisdiction of juvenile or general sessions court for delinquency or unruly matters; or

(B)

(i) Under eighteen (18) years of age; and

(ii) Under the jurisdiction of another court.

SECTION 2. Tennessee Code Annotated, Section 8-21-401(b)(1)(C)(i), is amended by deleting the language "juvenile court,".

SECTION 3. Tennessee Code Annotated, Section 8-21-401(b)(1)(E), is amended by redesignating the current subdivision as subdivision (b)(1)(E)(i) and adding the following new subdivision:

- (ii) The court cost described in subdivision (b)(1)(E)(i) does not apply to:
 - (a) Child support modifications in juvenile delinquency matters; or
 - (b) Child support as paid by parents, legal guardians, or legal custodians to a secure or nonsecure detention facility for costs and services related to the commitment of a child for a delinquency matter to department of children's services custody, except as required pursuant to Title IV of the Social Security Act (42 U.S.C. § 651 et seq.).

SECTION 4. Tennessee Code Annotated, Section 8-21-401(e), is amended by deleting the subsection and substituting instead the following:

- (e) Fees for Specified Proceedings in Juvenile Court.
 - (1) Unless otherwise provided in this section, court clerks in juvenile proceedings shall charge a standard court cost of one hundred dollars (\$100). This fee applies to all juvenile proceedings, including, but not limited to, requests to establish support or nonsupport, proceedings related to parentage, paternity cases, and legitimations, and except those involving relevant matters as defined in § 37-1-102.
 - (2)
 - (A) For requests for modification of child support, the clerk shall charge a fee of seventy-five dollars (\$75.00).
 - (B) The fee described in subdivision (e)(2)(A) does not apply to child support modifications in juvenile delinquency matters or to child support for costs and services related to the commitment of a child for a

delinquency matter to department of children's services custody, except as required pursuant to Title IV of the Social Security Act (42 U.S.C. § 651 et seq.).

(3)

(A) In the following actions, the clerk of the juvenile court shall charge a fee of forty-two dollars (\$42.00): consent orders, voluntary motions to grant custody, marriage waivers, attachment pro corpus, and bench warrants.

(B) Subdivision (e)(3)(A) does not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians of youths in relevant matters, as defined in § 37-1-102.

(4)

(A) In the following actions, the clerk of the juvenile court shall charge a fee of twenty-five dollars (\$25.00): restricted licenses, drug screenings, entering orders of appeal and taking appeal bonds, entering judgments from appellate court, entering orders allowing rehearing, and special pleas.

(B) Subdivision (e)(4)(A) does not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians of youths in relevant matters, as defined in § 37-1-102.

SECTION 5. Tennessee Code Annotated, Section 8-21-401, is amended by adding the following language as a new subsection (p):

(p) Subdivisions (d)(1)-(4), (e)(1)-(4), (g)(1)-(5), (i)(1)-(5), and (o)(1) do not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians of youths in relevant matters, as defined in § 37-1-102, in any court of this state.

SECTION 6. Tennessee Code Annotated, Section 8-21-402, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 16-20-106, is amended by deleting the language "and juvenile courts" wherever it appears and adding the following new subsection:

(h) The litigation taxes described in subsections (a)-(g) do not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians of youths in relevant matters, as defined in § 37-1-102, in any court of this state.

SECTION 8. Tennessee Code Annotated, Section 37-1-126(b), is amended by deleting the subsection and substituting instead the following:

(b) There is a rebuttable presumption that youths, as defined in § 37-1-102, are indigent for the purposes of appointing counsel. If the court appoints counsel to represent the youth, such appointment must be made at no cost to the youth or the youth's parent, legal guardian, or legal custodian, or any adult defendant or respondent of the youth who is provided with court-appointed counsel. A person is indigent if:

(1) That person does not possess sufficient means to pay reasonable compensation for the services of a competent attorney or guardian ad litem. In determining indigency, the court may consider the financial resources of the child and the child's parents, legal custodians, or guardians; or

(2) In the case of a child, if the child, 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 but refuse to do so timely, the court may make written findings determining this as indigency.

SECTION 9. Tennessee Code Annotated, Section 37-1-126(c), is amended by deleting the subsection.

SECTION 10. Tennessee Code Annotated, Section 37-1-138, is amended by adding the following subsection:

() Subsection (a) does not apply as related to juveniles committed for a delinquency matter to department of children's services custody, except as required pursuant to Title IV of the Social Security Act (42 U.S.C. § 651 et seq.).

SECTION 11. Tennessee Code Annotated, Section 37-1-150, is amended by deleting subsection (d) and subdivision (g)(1) in their entireties.

SECTION 12. Tennessee Code Annotated, Section 37-1-151, is amended by deleting subsection (a) and substituting instead the following:

(a) In any case in which the court finds a child dependent and neglected, it may in the same or subsequent proceeding, upon the parents of such child or either of them being duly summoned or voluntarily appearing, proceed to inquire into the ability of such parent to support the child or contribute to such child's support, and if the court shall find such parent or parents able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by executing or in any way in which a court of equity may enforce its orders and decrees, including by imprisonment and fine for contempt. No property of such parents, except the homestead of either of them, shall be exempt from levy and sale under such execution or other process issued from the court.

SECTION 13. Tennessee Code Annotated, Section 37-1-151, is amended by adding the following new subsection:

(f) Subsections (a)-(e) do not apply to child support modifications in juvenile delinquency matters or to child support for costs and services related to the commitment of a child for a delinquency matter to department of children's services custody, except as required pursuant to Title IV of the Social Security Act (42 U.S.C. § 651 et seq.).

SECTION 14. Tennessee Code Annotated, Section 37-1-163, is amended by deleting subsection (a) and substituting instead the following:

(a) Financial obligations shall not be assessed against a child, or the parent, legal custodian, or legal guardian of the 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).

SECTION 15. Tennessee Code Annotated, Section 37-5-205, is amended by adding the following new subsection (d):

(d) A child or the parent, legal guardian, or legal custodian of such child is not financially liable for any of the fees, costs, or expenses described in subsections (a)-(c).

SECTION 16. Tennessee Code Annotated, Section 37-11-103, is amended by deleting the section in its entirety.

SECTION 17. Tennessee Code Annotated, Section 40-14-202, is amended by adding the following new subsection (k):

(k) There is a rebuttable presumption that youths, as defined in § 37-1-102, are indigent for the purposes of appointing counsel in a felony case and, if the court appoints counsel to represent the youth, such appointment must be made at no cost to the youth.

SECTION 18. Tennessee Code Annotated, Section 49-6-3009(g), is amended by deleting the language "the judge may assess a fine of up to fifty dollars (\$50.00) or five (5) hours of community service" and substituting instead the language "the judge may order up to five (5) hours of community service".

SECTION 19. Tennessee Code Annotated, Section 49-6-3009(g), is amended by adding the following language at the end of the subsection:

The judge shall not assess a fine against the parent, legal guardian, or legal custodian of the student in the event a student in kindergarten through grade twelve (K-12) is

adjudicated to be unruly as a result of accumulating five (5) days or more of unexcused absences during any school year.

SECTION 20. Tennessee Code Annotated, Section 49-6-3011, is amended by deleting the section in its entirety.

SECTION 21. Tennessee Code Annotated, Section 49-6-3021(c)(2), is amended by deleting the language "the judge may assess a fine of up to fifty dollars (\$50.00) or five (5) hours of community service" and substituting instead the language "the judge may order up to five (5) hours of community service".

SECTION 22. Tennessee Code Annotated, Section 49-6-3021(c)(2), is amended by adding the following language at the end of the subsection:

The judge may not assess a fine to the child or the parent, legal guardian, or legal custodian of the child in the event a student in kindergarten through grade twelve (K-12) is adjudicated to be unruly as a result of unexcused absences from remedial instruction.

SECTION 23. Tennessee Code Annotated, Section 55-10-703, is amended by deleting the language ", along with an application fee of twenty dollars (\$20.00),".

SECTION 24. Tennessee Code Annotated, Section 55-10-705(a)(3), is amended by deleting the language ", together with an application fee of twenty dollars (\$20.00),".

SECTION 25. Tennessee Code Annotated, Section 55-10-706(a), is amended by deleting the subsection and substituting instead the following:

(a) On the expiration of the applicable period of denial set out in § 55-10-702(a), if a person has not become eligible to receive a license under § 55-10-703, then, for a person to be eligible to receive a Tennessee driver license, the person must comply with all testing requirements and pay applicable driver license fees.

SECTION 26. Tennessee Code Annotated, Section 57-5-301(d)(3)(A), is amended by deleting the subdivision and substituting instead the following:

(A) If the person violating this subdivision (d)(3) is less than eighteen (18) years of age, the person shall be punished by not less than twenty (20) hours of community service work, which penalty shall not be suspended or waived.

SECTION 27. Tennessee Code Annotated, Section 62-38-211(d), is amended by deleting the subsection and substituting instead the following:

(d) Any person under eighteen (18) years of age who knowingly makes a false statement or exhibits false identification to the effect that the person is eighteen (18) years of age or older to any person providing tattoo services licensed or permitted under this part for the purpose of purchasing or obtaining the same commits delinquent acts taken through juvenile courts and the person shall be punished by not less than twenty (20) hours of community service work, which penalty shall not be suspended or waived.

SECTION 28. Tennessee Code Annotated, Section 67-4-601, is amended by adding the following language as a new subsection (k):

(k) The litigation taxes described in subsections (a)-(j) do not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians of youths in relevant matters, as defined in § 37-1-102.

SECTION 29. Tennessee Code Annotated, Section 67-4-602, is amended by adding the following language as a new subsection:

() The privilege taxes described in subsections (a) and (f)-(k) do not apply to youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians in matters involving any defendant who is a youth.

SECTION 30. Tennessee Code Annotated, Title 67, Chapter 4, Part 6, is amended by adding the following new section:

A county or municipality in this state is not authorized to levy fines, fees, costs, or taxes against youths, as defined in § 37-1-102, or parents, legal guardians, or legal custodians in juvenile court delinquency or unruly matters.

SECTION 31. Tennessee Code Annotated, Title 40, Chapter 24, is amended by adding the following new section:

In any relevant matter, as defined in § 37-1-102, in any court of this state, a youth, as defined in § 37-1-102, or parent, legal guardian, or legal custodian of a youth shall not be ordered to pay fees, costs, financial charges, or a combination of fees, costs, and financial charges as described in § 8-21-901, § 8-26-105, § 8-26-107, § 16-3-910, § 16-15-5006, § 16-15-5008, § 16-18-305(a), § 16-18-305(b), § 16-22-109, § 38-6-103(d)(1)(A)(i), § 39-13-708(b), § 39-17-420(d), § 39-17-420(h), § 39-17-439(a), § 40-3-203(a), § 40-3-203(d), § 40-3-204(b), § 40-7-122, § 40-14-103(b), § 40-14-210(a), § 40-24-107(a)(1)-(2), § 40-25-107, § 40-35-313(a)(1)(A), § 40-39-305(a), § 41-2-129(b)(1), § 41-2-129(b)(3)-(4), § 41-2-129(c)(2), § 41-2-129(c)(4), § 41-2-129(c)(6), § 41-2-139, § 41-4-142(a)-(b), § 41-6-105, § 41-6-106(2), § 41-6-106(4), § 41-6-206(a)(2), § 41-6-303(a)(2), § 41-7-104(c), § 41-11-103, § 41-21-105, § 41-21-510(b)-(c), or § 41-21-511. This section does not apply to fees, costs, or financial charges related to driving under the influence.

SECTION 32. Tennessee Code Annotated, Title 40, Chapter 24, is amended by adding the following new section:

In any relevant matter, as defined in § 37-1-102, in any court of this state, a youth, as defined in § 37-1-102, or parent, legal guardian, or legal custodian of a youth shall not be ordered to pay fines as described in § 16-15-713(a), § 16-18-306, § 39-17-417, § 40-24-108(a), § 40-24-109(c), § 40-35-111(b), § 41-2-112, or § 57-3-412(a)(4). This section does not apply to fines related to driving under the influence.

SECTION 33. Any judgment entered prior to July 1, 2023, for the fines, fees, costs, or taxes herein, is null, void, and uncollectible on July 1, 2023, if there remains a balance due, including post-judgment interest, penalties, or collection expenses, on the judgment as of that date; and if this act removes or repeals the underlying statutory authority for or would prohibit the assessment of the fine, fee, cost, or tax included in the judgment if the judgment had been entered after July 1, 2023. Any civil judgment, lien, or other legal encumbrance associated with these judgments is vacated. The court administrator may not charge any fees associated with the satisfaction of a judgment described in this section. By January 1, 2024, the administrative office of the courts, in consultation with state and municipal agencies, shall establish procedures to vacate and discharge all unpaid outstanding balances and all unsatisfied civil judgments, existing liens, and existing legal encumbrances that are subject to this section. The procedures shall not require a youth, as defined in Section 1, or the parent, legal guardian, or legal custodian of a youth to affirmatively act to initiate the procedures.

SECTION 34. This act does not prohibit a youth, as defined in Section 1, from being eligible for a diversion program if the youth is otherwise eligible. Judges shall offer a diversion alternative or program in any case where the judge otherwise would do so, including in the absence of the assessment of any fine, fee, or cost.

SECTION 35. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 36. This act takes effect July 1, 2023, the public welfare requiring it.