



STATE OF TENNESSEE
TENNESSEE COMMISSION ON CHILDREN AND YOUTH

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Legislative Committee
February 11, 2016
Minutes

Members Present:

Rob Mortensen, Chair
Genesis Hardin
Jennie Harlan
Bill Haynes
Petrina Jones-Jesz
Audrey Taylor Gonzalez
Amy Lawrence (8:55)
Wendy Shea
Christy Sigler (8:55)
Jill Grayson Stott

Members Absent:

Phil Acord
Gary Houston

Staff Present:

Linda O'Neal, ED
Richard Kennedy, AD
Dana Cobb
Lindsey Cody
Susan Cope
Sujit Das
Craig Hargrow

Rodger Jowers
Sumita Keller
Rosalyn Leavell-Rice
Melissa McGee
Rose Naccarato
Shaun Noblit
Kristi Paling
Steve Petty
John Rust
Natasha Smith

I. Welcome and Introductions – Rob Mortensen, Chair

Chair Rob Mortensen convened the Legislative Committee at 8:32 a.m. and welcomed everyone.

II. Overview of the Legislative Review Process – Linda O'Neal

Linda O'Neal provided an overview of the legislative review process for TCCY. Staff, primarily Steve Petty, Craig Hargrow and O'Neal, review all bills submitted in the General Assembly and identify those impacting children and families. Petty prepares the Legislative Report that includes all bills. Staff, including the regional coordinators via conference call, identify the subset of bills that will be tracked in the weekly Legislative Updates, and the smaller subset of bills for development of legislative guidance statements, and the recommended position on those bills. Assigned staff draft the legislative guidance on individual bills. Hargrow, Petty and O'Neal drafted most, and John Rust drafted one. O'Neal served as the overall editor and compiled all legislative guidance into a single document. There were additional discussions regarding whether legislation would be included in the recommendations for the Committee and final editing of the draft statements, and the draft version was distributed to the Legislative Committee.

The Committee will review each draft recommendation and by motion, second and voting will approve the recommendations. If bills are dropped from the list following discussion, they will not appear in the final list of recommendations or minutes that will be provided to all Commission members for action in the meeting on Friday, February 12.

III. Review of Draft Legislation and Action

After discussion, the committee made the following recommendations for legislative guidance:

SB 1629 (Tate)/HB 1660 (Weaver)

TLS Bill Summary: Criminal Offenses - As introduced, deletes the July 1, 2016, termination date for legislation permitting the prosecution of a woman for assault of a fetus based on her illegal use of narcotic drugs while pregnant and creating the affirmative defense that the woman completed an addiction recovery program. - Amends TCA Title 39, Chapter 13, Part 1 and Chapter 820 of the Public Acts of 2014.

Additional Summary Clarification: The goal of the original legislation was to decrease the number of Drug Dependent Newborns (Neonatal Abstinence Syndrome) babies born in Tennessee. The law provides the real possibility for mothers to be charged, incarcerated and found guilty of assaulting their baby by use of a narcotic drug.

Effect of Changes in Current Law: Tennessee medical facilities reported approximately 1,000 cases of Drug Dependent Newborns for 2014 and for 2015 to the Tennessee Department of Health's mandatory Drug Dependent Newborn Surveillance system. According to the April 10, 2015 summary report (covering calendar year 2014) of a survey of Tennessee's District Attorney General's regarding Public Chapter 820 (Fetal Assault Law), only 28 cases had been initiated.

2014 Fetal Assault Law Outcomes

Drug Court Treatment while case is pending with dismissal upon graduation	7
Probation with drug treatment outside of a drug court program as condition	10
Up-front jail time followed by probation	1
Probation with drug court treatment as a condition	0
Case pending with condition of bail/pretrial supervision entering and completing a drug court rehabilitation program	1
Case dismissed after 6 months with all conditions being met	1
Required community service and compliance with Department of Children's Services	1
Cases pending without resolution at time of survey	7
Total	28

With only 21 of almost 1,000 reported mothers of drug dependent babies receiving some type of treatment to reduce harm or death to their babies, this law had very little positive outcome in reducing drug dependent babies in Tennessee for 2014. In fact, in 2015 the number of

Tennessee's drug dependent newborns reported to the surveillance system was similar to that of 2014. Only 10 of 31 judicial districts reported using this law for prosecutions. Except for Judicial District 2 (Sullivan County), there is no correlation between the number of Drug Dependent Newborn surveillance numbers and prosecutions.

The survey reveals other problems with the law reported by respondents:

“The statute requires (1) doctor refer patient to addiction program and (2) someone follow-up and see if mom completed program. Participation doesn't mean mom doesn't use drugs. More obstacles to prosecution combined with a less significant penalty on successful prosecution probably means less prosecution will be undertaken.”

“The law isn't very clear and does not encompass all illegal drugs. The penalty is a misdemeanor, and successful treatment is an affirmative defense. Successful treatment is not defined and is very subjective depending on the perspective.”

“There have been concerns over decrease in prenatal care.”

According to the 2014 Drug Dependent Newborns (Neonatal Abstinence Syndrome) Surveillance Summary, 76 percent of all drug dependent newborn births were to mothers who had a prescription for the source of maternal substance (supervised replacement therapy, supervised pain therapy and therapy for psychiatric or neurological condition) that created the drug dependent newborn diagnosis. In 2015, the prescribed source of maternal substances rose to 80.7. In theory, none of these mothers would be candidates for prosecution under Public Law 820 since they had a legitimate prescription for the medication implicated in the diagnosis.

The American Congress of Obstetrics and Gynecology (ACOG) standard of care for pregnant women with opioid dependence during pregnancy is to maintain on either methadone or Suboxone® (buprenorphine and naloxone). Both of these maintenance-assisted therapy products are opioids that can result in a newborn still being born drug dependent. Therefore, mothers who enter substance abuse treatment programs as a result of Public Law 820 will not necessarily have a newborn who is not born drug dependent. ACOG does not recommend medically supervised tapers during pregnancy. Abrupt discontinuation of opioids in an opioid-dependent pregnant woman can result in preterm labor, fetal distress or fetal demise.

Methadone treatment in Tennessee is provided on a cash-only basis with a typical cost of \$12.50 daily or \$4,500 annually. Suboxone® treatment is covered by some managed care organization's formulary. Patients must use a certified medical provider if they are administered Suboxone – and these providers are limited. They typically do not wish to provide the oversight for pregnant mothers because patient management is more difficult and tedious.

In 2014, Governor Bill Haslam offered strategies for Tennessee to combat prescription drug problems and outlined ten strategies in PRESCRIPTION FOR SUCCESS: Statewide Strategies to Prevent and Treat the Prescription Drug Abuse Epidemic in Tennessee. Some of the strategies have been fulfilled while the others are still sound recommendations that need to be implemented:

- Licensing bodies should continue to review their own policies and procedures around unsafe opioid prescribing practices and enact new rules that allow better self-regulation

of licensees including tougher and timelier consequences for physicians who overprescribe.

- Provide additional specialized treatment options for mothers with opioid addiction whose babies have been born with Neonatal Abstinence Syndrome or who are at risk of losing their children.
- Provide additional low budget/high-impact services such as Oxford Houses, Lifeline, 12-Step Meetings, and Faith-Based initiatives.
- Develop additional Recovery Courts throughout the state.
- Create up to three additional Residential Recovery Courts.
- Develop best practices for opioid detoxification of pregnant women.
- Provide specialized training to treatment providers on best practices for serving people with opioid addiction.
- Increase the availability of and refine training for time-limited substance abuse case management services.

The Tennessee Association of Alcohol, Drug and Other Addiction Services identified several barriers to care for pregnant, drug-using women in their White Paper on Implementation of Chapter 820. They include:

1. Lack of treatment facilities that will admit pregnant women – including poor access to Methadone and Subutex providers;
2. Lack of high-risk OB-GYNs who will affiliate with treatment providers and these women to provide care while they are in addiction treatment;
3. Lack of treatment facilities that provide recovery support for women through their pregnancies and post-partum – especially ones that provide family residential care;
4. Lack of childcare for women in treatment during pregnancy and post-partum;
5. Lack of funding for treatment – access to care is further limited for those without insurance, state/Federal funding for indigent care only treats a few hundred pregnant women each year
6. Lack of insurance parity enforcement keeps some women from accessing care even when they have insurance; and
7. Lack of transportation for women to get to treatment – especially in rural areas

The TennCare Bureau has begun implementation of strategies that provide significant promise in reducing NAS babies. According to the latest data, 93 percent of all NAS births in the state are to mothers on TennCare, resulting in the expenditure of \$50 million a year on hospital bills related to NAS for infants who have to detox in a neonatal intensive care unit. TennCare strategies focus on increasing the use of voluntary long-acting reversible contraceptives (VLARC) by encouraging more use of VLARCs. This includes encouraging obstetricians to recommend reversible birth control implants to prevent subsequent NAS babies, and changing the payment structure so doctors get paid more for the procedure if it is done while a new mother is still in the hospital. They are also making it easier for hospitals to keep VLARCs on hand. In other states, there have been improvements in reducing unplanned pregnancies through the use of voluntary long-acting reversible contraceptives. In some areas, the local offices of the Department of Health are also engaged in strategic efforts to make VLARCs more readily available, especially for women who are at increased risk of having a baby who would be exposed to substances that produce neonatal abstinence syndrome.

TCCY Legislative Committee Recommended Position: OPPOSE: While the Commission supports effective strategies to reduce the incidence of Neonatal Abstinence Syndrome, the implementation of Public Law 820 has not produced positive results for substance-using pregnant women or the state. It has not been used consistently by the state's District Attorneys General. It has resulted in assisting very few pregnant women to receive treatment. It has not reduced the state's drug dependent newborn births and has not addressed the barriers to pregnant women receiving care. This law discourages pregnant mothers from seeking needed prenatal care. There is anecdotal evidence of increased numbers of mothers crossing state lines to give birth, having home births, and other emergency birthing situations because of fear related to current law. The law should be allowed to Sunset on July 1, 2016. Instead of punitive laws like this, Tennessee should put in place strategies that would be beneficial for addressing this problem. TennCare has recently announced a strategy with great potential – improving access to voluntary long-acting reversible contraceptives by removing barriers to their use. Appropriately regulation of prescribers of opioids and other substances and the provision of sufficient accessible treatment are additional more appropriate strategies.

MOTION TO OPPOSE (Shea), SECONDED BY (Haynes). Unanimous.

SB 1761(Briggs)/HB 2043 (Farmer)

TLS Bill Summary: Charges for persons providing prayer instead of medical treatment.

Removes provision stipulating a person who provides prayer in lieu of medical or surgical treatment could have legal immunity in regards to the crime of child abuse, neglect, or endangerment solely for that reason.

Effect of Changes in Current Law: While parents have the right to make decisions regarding their children, the state has an obligation to protect children from unreasonable risk of harm. In certain medical situations, treatment is clearly required to avoid life-threatening situations and even death. This bill would eliminate the legal shield for parents who fail to provide medical care for their children.

TCCY Legislative Committee Recommended Position: SUPPORT. While TCCY is very supportive of parental rights, those rights should not be a defense to child endangerment for failure to seek treatment that reduces risk and prolongs life. While the overwhelming majority of parents choose treatment for their children, if a child is injured or dies due to the failure to receive treatment, parents should not be exempt from prosecution for child abuse any more than they would be exempt in circumstances where excessive discipline resulted in injury or death.

MOTION TO SUPPORT (Taylor Gonzalez), SECONDED BY (Stott). Unanimous.

SB 2081 (Overbey)/HB 2039 (Farmer)

TLS Bill Summary: Judicial diversion programs for juveniles. As introduced, creates judicial diversion program for juveniles, in which the juvenile would admit to a delinquent act, complete a one-year probation period, and have the charges against the child dismissed. - Amends TCA Title 37 and Title 40.

Additional Summary Clarification: This bill is very similar to Section 4 of SB 2574/HB 2495. The basic differences are as follows:

This bill provides judicial diversions for delinquent acts only. Section 4 of SB2574/2495 provides judicial diversions for delinquent and *unruly* acts;

This bill provides probation conditions shall not include removing the child from the custody of the child's parents or guardians. Section 4 of SB2574/2495 provides probation conditions shall not include a *period of detention* and placing the child in custody of the Department of Children's Services;

This bill provides the child may be subject to the judicial diversion agreement for up to one year. Section 4 of SB 2574/HB 2495 provides the judicial diversion agreement remains in force for a maximum of six months, but may be extended for another six months if, before the initial six month period expires, a party makes application for the extension and the court grants it after notice and a hearing; and

Section 4 of SB 2574/HB 2495 provides a child cannot be placed on judicial diversion if the delinquent act alleged is an offense described in TCA § 37-1-153(b) or if the child had been previously adjudicated for such an offense. The offenses currently described in TCA § 37-1-153(b) are as follows: first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping. This bill does not contain a corresponding provision.

Effect of Changes in Current Law: Currently, there are no statutory provisions that explicitly provide authority for judicial diversions in juvenile court. This bill provides such statutory authority.

TCCY Legislative Committee Recommended Position: DEFER TO SECTION 4 OF SB2574/2495: A judicial diversion, when used properly, is an excellent tool to help divert appropriately identified children from proceeding further into the juvenile justice system. As children sink deeper into the juvenile justice system, statistics indicate the greater likelihood their life trajectory is negatively impacted. Judicial diversion is a much needed tool.

TCCY recommends deferring to Section 4 of SB 2574/HB 2495 for several reasons. Section 4 of SB2574/2495 makes judicial diversion available to children alleged to be delinquent or unruly. Section 4 of SB2574/2495 prohibits making detention a condition of the diversion, which helps ensure children are not being improperly detained. The six month period(s) for diversion under Section 4 of SB2574/2495 will help ensure children do not remain subject to the judicial diversion agreement longer than necessary while still allowing a child to remain subject to the agreement for 12 months. Section 4 of SB 2574/HB 2495 provides a safeguard to help ensure judicial diversions are used properly by prohibiting certain alleged delinquent acts and children previously adjudicated for those acts from receiving a judicial diversion.

MOTION TO DEFER TO SECTION 4 OF SB2574/2495 (Lawrence), SECONDED BY (Shea). Unanimous.

SB 2090 (Overbey)/HB 2028 (Faison)

TLS Bill Summary: Juveniles sentenced as adults - sentence reduction. State Summary - As introduced, establishes a procedure whereby a person who committed a crime while a juvenile, was transferred to adult court for trial, and was sentenced as an adult may petition the court for sentence reduction after service of 15 years imprisonment. - Amends TCA Title 40.

Additional Summary Clarification: The bill specifies the mitigating factors that should be considered in sentencing a youth who has been tried and convicted as an adult. It establishes a procedure for an individual who committed a crime as a juvenile and was tried and convicted as an adult to petition for reconsideration of the sentence after 15 years. It authorizes the court to reduce the sentence if the court finds such warranted. It sets out the factors the court must consider, including the recommendation of the district attorney and the victim or victim's family and specifies the procedure. The provisions are retroactive to any inmate who has served 15 years for a crime committed as a juvenile and conviction as an adult. It also specifies that a sentence of life without the possibility of parole cannot be imposed on an individual for a crime committed as a juvenile convicted as an adult.

Effect of Changes in Current Law: Decisions of the United States Supreme Court dating back to 2005 have reshaped juvenile justice. In 2005, the Court prohibited the death penalty for juveniles (*Roper v. Simmons*). In 2010, the Court prohibited the sentence of life without parole for juveniles convicted of non-homicide offenses (*Graham v. Florida*). In 2012, the Court prohibited the mandatory sentence of life without parole for juveniles, even if the juvenile is convicted of homicide (*Miller v. Alabama*). In 2016, the Court held *Miller* applies retroactively and juveniles sentenced to life without parole prior to *Miller* must be given an opportunity to argue that they should be released from prison.

The Court relied on behavioral and brain research to affirm youth are not as mature as adults. Therefore, youth are not as culpable as adults in the commission of delinquent/criminal offenses. Additionally, the Court used the same body of research to affirm youth are more likely to change over time. *Juvenile Sentencing in a Developmental Framework: The Role of the Courts (Models for Change)*.

This legislation would establish a clear procedure for Tennessee to come into compliance with these U.S. Supreme Court rulings. This will avoid potentially lengthy litigation to determine how these rulings would be implemented in Tennessee.

TCCY Legislative Committee Recommended Position: SUPPORT: Brain research confirms the development of the human brain, especially the frontal cortex, the part that controls executive functions such as judgment, self-regulation and impulse control, is not completed until around age 23 to 25. This legislation establishes a procedure for a young person who has committed a serious crime as a juvenile and been convicted as an adult and received a lengthy prison sentence to petition the court for a consideration for a shorter sentence. The bill identifies the factors that result in youth making bad decisions that lead to such a conviction. It also provides for reconsideration of the sentence and identifies the factors of progress that might warrant such reconsideration. The legislation is not mandatory and does not establish a requirement to reduce a sentence other than one for life without the possibility of parole to life with the possibility of parole. It establishes a case-by-case procedure for a judge to reduce a sentence for an individual

who meets the criteria set out in the legislation. Passage of this legislation provides incentives for these individuals to turn their lives around and provides the potential for release and the opportunity to become a productive, contributing adult. As a result of the U.S. Supreme Court Rulings, Tennessee needs legislation like this to specify the procedure for the state to comply and provide a second chance to those who have earned it.

MOTION TO SUPPORT (Sigler), SECONDED BY (Shea). Unanimous.

SB 2613 (Norris)/HB 2500 (White, M.)

TLS Bill Summary: Extension of juvenile court jurisdiction over certain offenders. State Summary - As introduced, extends the juvenile court's jurisdiction for a child who commits certain delinquent acts to the child's 25th birthday; permits the court to impose any sentence on the child during that time that could have been imposed if the child had been convicted as an adult. - Amends TCA Title 37, Chapter 1 and Section 40-35-303.

SB 1681 (Bowling)/HB 1740 (Hardaway)

TLS Bill Summary: Juvenile court to retain jurisdiction over minor who commits crime. Expands the juvenile court's jurisdiction over a minor from 19 to 25 years of age. Allows the court to impose adult sentences upon the minor and to stay any portion of the sentence that goes beyond the minor's 25th birthday. Allows the minor to file a petition before his or her 25th birthday requesting that the court find that all requirements have been met and that the minor be placed or released. Sets forth the requirements and procedure for such a petition.

Effect of Changes in Current Law: Continues court jurisdiction in certain cases until age 25. This enables the court to have ongoing jurisdiction in serious cases to determine whether the individual who committed a serious offense as a juvenile has matured and progressed sufficiently to warrant release at age 25.

TCCY Legislative Committee Recommended Position: OPPOSE IN CURRENT FORM: There are too many questions regarding legislation extending juvenile court jurisdiction to age 25, what is commonly referred to as blended sentencing. There are substantial questions related to the procedures to be utilized and the factors to be considered in the imposition of such a sentence and the resolution of that sentence before age 25. There is a need for more careful study of the benefits and challenges of such provisions, and clear identification of costs and options for housing youth sentenced under these laws. Should this legislation evolve into a task force or study to consider issues related to juvenile justice, the executive director or designee of the Tennessee Commission on Children and Youth should be a participant.

MOTION TO OPPOSE IN CURRENT FORM (Sigler), SECONDED BY (Stott). Unanimous'

SB 1862 (Tate)/HB 1780 (Coley)

TLS Bill Summary: Posting of toll free number for child abuse reporting. State Summary - As introduced, requires every elementary and secondary school to post the toll-free telephone number operated by the department of children's services to receive reports of child abuse or

neglect in a clearly visible location in a public area that is readily accessible to students. - Amends TCA Title 49.

Additional Summary Clarification:

Pursuant to TCA § 49-6-301, “elementary and secondary” includes middle schools. The bill also requires the sign to instruct students to call 911 for emergencies.

Effect of Changes in Current Law: Currently, the Tennessee Code does not require elementary and secondary schools to post a sign that contains the toll-free telephone number operated by the Tennessee Department of Children’s Services to receive reports of child abuse or neglect. This law would require posting the Department of Children’s Services toll free number for child abuse reporting so all children in schools would know where to call if they are experiencing child abuse.

TCCY Legislative Committee Recommended Position: SUPPORT: Child abuse in any form is an Adverse Childhood Experience (ACE) that has a negative impact on the child’s healthy development socially, emotionally, and cognitively and on long-term health. TCCY supports bills that responsibly raise awareness of the child abuse hotline, especially among children. One way to reduce incidents of child abuse is to raise awareness of the issue. Providing the proposed poster is another step in raising awareness. While the availability of the child abuse reporting number will not prevent initial child abuse, it could help children avoid repeat abuse and start them on a path to recovery sooner. Wide availability of the phone number for reporting child abuse in Tennessee is a positive step in efforts to prevent, mitigate and treat Adverse Childhood Experiences in Tennessee.

Most employers are required to post multiple notices in the workplace for the benefit of the employee: Department of Labor Wage and Hour, Equal Employment Opportunity, Fair Labor Standards Act and many other types of posters. The notices are posted so employees know their rights and know who to contact if they believe their rights have been violated. This bill extends that logic to victims of child abuse. Sometimes, children who are abused do not know where to turn for help. Most children are abused by people they know and often trust. An abused child may feel he/she cannot trust other adults in his/her life. The availability of the child abuse hotline will give school-aged abused children another avenue to seek help.

MOTION TO SUPPORT (Taylor Gonzaaalez), SECONDED BY (Shea). Unanimous.

SB 1899 (Dickerson)/HB 1485 (White, M.)

TLS Bill Summary: Changes certain requirements for voluntary pre-k programs. Requires an LEA as part of its application for funding and approval of one or more pre-K programs to include (1) a plan for ensuring coordination between voluntary pre-K classrooms and elementary schools within the LEA, with the goal of ensuring that elementary grade instruction builds upon pre-K classroom experiences; (2) a plan for engaging parents and families of voluntary pre-K students throughout the school year; and (3) a plan for delivering relevant and meaningful professional development to voluntary pre-K teachers, specific to ensuring a high quality pre-K experience. Requires LEAs that receive pre-K program approval to utilize the pre-K/kindergarten growth portfolio model approved by the state board of education in the evaluation of pre-K and kindergarten teachers. Requires the office of early learning within the department of education to

approve a kindergarten entry screener that LEAs shall administer to all students entering kindergarten beginning with the 2017-2018 school year, to provide educators with baseline information about where their students are when the students enter kindergarten and to provide usable data concerning how well students have been prepared in their preschool experience.

Effect of Changes in Current Law: This legislation establishes much needed guidelines for improving the quality of Pre-K programs in Tennessee as well as improving the alignment of pre-k and elementary education. It provides mechanisms for improving the quality of Pre-K while preserving the current Pre-K infrastructure.

TCCY Legislative Committee Recommended Position: SUPPORT: The Tennessee Commission on Children and Youth is a long-time supporter of quality Pre-Kindergarten Programs in Tennessee. The Vanderbilt Study indicated children who had the benefit of Pre-K entered school better prepared. It also identified the need for addressing quality in Pre-K as well as better alignment between Pre-K and elementary school. This legislation, in conjunction with the Governor’s budget, would support continued funding for Pre-K to preserve the infrastructure and provide a foundation for improving quality programming and outcomes.

A 2013 report from the Foundation for Child Development reports long-term benefits occur despite convergence of test scores with positive effects on important societal outcomes such as high-school graduation, years of education completed, earnings, and reduced crime and teen pregnancy, even after test-score effects decline to zero.

National evaluations of quality Pre-K programs have shown reduced referrals for special education, increased graduation rates, reduced incarceration, and even increases in the earnings of student’s households. At-risk students, defined as those eligible to participate in free or reduced-price lunch programs, and children with disabilities are shown to benefit most from quality Pre-K programs.

Quality Pre-K programs are a wise investment in the future of Tennessee. Quality Pre-K helps ameliorate Adverse Childhood Experiences (ACEs) and is an important strategy for building a stronger, more competitive work force.

MOTION TO SUPPORT (Stott), SECONDED BY (Harlan). Unanimous.

SB 1724 (Crowe)/HB 1502 (Hawk)

TLS Bill Summary: Visitation with foster child. State Summary - As introduced, permits a foster parent to petition the court for visitation with a foster child that has been removed from the foster parent's home due to no fault of the foster parent; requires a court ordering foster parent visitation to find a danger of substantial harm to the child and that visitation is in the best interests of the child. - Amends TCA Title 36 and Title 37.

Additional Summary Clarification: The bill does not just permit a foster parent to petition the court for visitation with a foster child that has been removed from the foster parent's home due to no fault of the foster parent. The bill also “necessitates” a hearing in certain circumstances if the custodial parent(s) oppose the visitation. This bill affects only children born out of wedlock.

Effect of Changes in Current Law: Currently, there is no law prohibiting a former foster parent from petitioning a court of proper jurisdiction for visitation with the child removed from the foster home. However, this bill mandates a hearing if the custodial parent or parents oppose the visitation if:

The child resided in the home of the foster parent for a period of 12 months or more and was subsequently removed from the home due to no fault by the foster parent. When a child has resided in the home of the foster parent for at least 12 months, a rebuttable presumption that denial of visitation may result in irreparable harm to the child is established; or

The child and the foster parent maintained a significant existing relationship for a period of 12 months or more immediately preceding severance of the relationship. The relationship was severed by the child being removed from the foster home due to no fault by the foster parent, and severance of this relationship is likely to occasion substantial emotional harm to the child.

When considering a petition for foster parent visitation, the court must first determine the presence of a danger of substantial harm. The finding of substantial harm may be based upon the cessation of the relationship between an unmarried minor and the foster parent if there is proof that the child had a “significant existing relationship” with the foster parent and the loss of the relationship is likely to occasion severe emotional harm, or the loss of the relationship presents the danger of other direct and substantial harm to the child. For the purpose of determining whether a danger of substantial harm exists, the bill defines a “significant existing relationship” between the child and foster parent as the child resided with the foster parent for at least six consecutive months, or the foster parent was a full-time caretaker of the child for a period not less than six consecutive months.

The foster parent is not required to present expert testimony to establish a significant existing relationship with a child. Moreover, unlike TCA § 37-1-102(b)(21)(B), the foster parent is not required to present expert testimony that the loss of the relationship is likely to occasion severe emotional harm to the child. The court shall use a reasonable person standard to make the determination.

If the court finds danger of substantial harm to the child, the court must then determine whether foster parent visitation is in the best interest of the child. If the court makes such a finding, the court may order reasonable visitation. In determining the best interest of the child, the court must consider all pertinent matters, including the following:

(1) The length and quality of the prior relationship between the child and the foster parent and the role performed by the foster parent;

(2) The existing emotional ties of the child to the foster parent;

(3) The preference of the child if the child is determined to be of sufficient maturity to express a preference;

(4) The effect of hostility between the foster parent and the parent of the child manifested before the child, and the willingness of the foster parent, except in cases of abuse, to encourage a close relationship between the child and the parent or parents, or guardian or guardians of the child;

(5) The good faith of the foster parent in filing the petition;

(6) If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with respect to the child;

- (7) Any unreasonable deprivation of the foster parent's opportunity to assist the child in transitioning to a new custody arrangement;
- (8) Whether the foster parent is seeking to maintain a significant existing relationship with the child;
- (9) Whether awarding foster parent visitation would interfere with the parent-child relationship; and
- (10) Any court finding that the child's parent or guardian is unfit.

This legislation would open DCS and families to litigation permitting former foster parents to petition the court to order visitation rights with children who were placed in their homes.

TCCY Legislative Committee Recommended Position: OPPOSE: In general, TCCY supports maintaining healthy relationships between children and their caregivers. TCCY also generally supports protecting parents' constitutional rights to parent their children. Parents have a fundamental right to the care, custody, and control of their children. *Stanley v. Illinois*, 405 U.S. 645 (1972); *In re Drinnon*, 776 S.W.2d 96, 97 (Tenn. Ct. App. 1988). This right "is among the oldest of the judicially recognized liberty interests protected by the Due Process Clauses of the federal and state constitutions." *In re M.J.B.*, 140 S.W.3d 643, 652-53 (Tenn. Ct. App. 2004). TCCY acknowledges parental rights are not absolute and supports Tennessee law that recognizes the need to interfere with the parenting to prevent serious harm to a child.

Foster parents would be able to rely on this proposed bill only when the child is removed from them due to no fault of their own. Removal from a foster home due to no fault by the foster parent includes returning a child to his/her parent, custodian or guardian. In such a situation, a court will have made a determination that the parent, custodian or guardian is fit to care for the child. A foster parent, or anyone else, should not be able to interfere with parenting unless it is to prevent serious harm to the child.

Tennessee already has laws designed to protect children from abuse and neglect. Under Tennessee's current laws, the burden is on the petitioner to prove the alleged harm to the child. One of the things this bill does is shift the burden to the parent to prove the denial of visitation will not result in irreparable harm to the child if the child resided in the home of the foster parent for a least 12 months.

For the State to prove severe emotional abuse of a child and interfere with a parent's right to parent his/her child, the State must produce expert testimony that provides the abuse or neglect toward the child has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function adequately in the child's environment, and the knowing failure to protect a child from such conduct. Pursuant to this proposed bill, for a foster parent to prove a danger of substantial harm to a child based, in part, on severe emotional harm to the child, the foster parent is not required to present expert testimony that the loss of the relationship is likely to occasion severe emotional harm to the child.

The language of this bill also implies if the parent is not the custodial parent, they do not have standing to object to a petition brought pursuant to the bill for foster parent visitation. The bill also implies a custodian who is not the parent does not have standing to object to a petition brought pursuant to the bill for foster parent visitation.

Foster parents are incredibly valuable resources in the child welfare system, but from the start they are advised the placement is temporary. While foster parents should receive extensive support and are heroes for the love and support they provide vulnerable children, they should not be able to force visitation with children who have been returned to their parents or other relatives. TCCY opposes legislation that unnecessarily infringes on the rights of parents to parent their children.

MOTION TO OPPOSE (Sigler), SECONDED BY (Harlan). Unanimous.

SB 2274 (Beavers)/HB 1449 (Sparks)

TLS Bill Summary: Prohibits interrogation of a child without parent's consent. Prohibits interrogation or interview of a child who has been taken into custody due to suspicion that the child committed a delinquent act or unruly conduct that places the child in jeopardy of being removed from the home except in the presence of the child's legal counsel, parent, guardian, or custodian. Requires a video recording to be made of the interview and the child to be informed of certain rights. Specifies that a child taken into custody due to suspicion that a delinquent act or unruly conduct has taken place that places the child in jeopardy of being removed from the home shall be immediately informed of certain rights.

Additional Summary Clarification: This legislation amends current law to clarify in code that a child has a right to legal counsel during all stages of any proceedings by adding the following new section to 37-1-113:

(c) When a child is taken into custody due to suspicion that the child has committed a delinquent act or unruly conduct that places the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), the child shall immediately be informed of the rights listed in this subsection. The following rights shall be posted where the child may read them, and such rights shall be read to the child:

- (1) The right to be informed of the reason the child was taken into custody;
- (2) The right to be released to a parent, guardian, or other custodian within a reasonable time or delivered to a detention facility, shelter facility, or medical facility, pursuant to § 37-1-115;
- (3) The right to legal counsel during all stages of any proceedings including any interview or interrogation, pursuant to § 37-1-126; and
- (4) The right to have the child's legal counsel, parent, guardian, or custodian present during any interview or interrogation concerning any violation of state or federal law, which cannot be waived.

The legislation further amends 37-1-126(a)(1) by deleting the current language reading:

- (1) A child is entitled to representation by legal counsel at all stages of any delinquency proceedings or proceedings alleging unruly conduct that place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b) and is entitled to a guardian ad litem for proceedings alleging a child to be dependent and neglected or abused.

And substituting:

- (1) A child is entitled to representation by legal counsel at all stages of any delinquency proceedings or proceedings alleging unruly conduct that place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), including any interview or interrogation, and is entitled to a guardian ad litem for proceedings alleging a child to be dependent and neglected or abused.

The legislation further amends 37-1-126 by adding the following new subsection:

- (d) When a child has been taken into custody due to suspicion that the child committed a delinquent act or unruly conduct that places the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), no person may interview or interrogate the child concerning any violation of state or federal law by the child unless in the presence of the child's legal counsel, parent, guardian, or custodian. A video recording shall be made of any interview or interrogation of the child. The requirements of this subsection shall not be subject to waiver by the child.

Effect of Changes in Current Law: This legislation expands the existing right of youth to be represented by counsel, including during the interview and interrogation stages of the investigation. It further requires that youth taken into custody due to suspicion that the child committed a delinquent or unruly act only be questioned in the presence of the child's legal counsel, parent, guardian or custodian. The legislation also requires that a video recording be made of any interview or interrogation of the child.

Children already have a right to legal counsel; this legislation simply extends that right to counsel to the interview and interrogation phase of the investigation. This legislation does provide that children be "Mirandized," or read their rights when being taken into custody. It requires those rights be read to the child and posted where the child may read them.

TCCY Legislative Committee Recommended Position: SUPPORT- TCCY supports the expansion of the right to legal counsel to youth suspected of delinquent or unruly behavior, to include the interview and interrogation phase of an investigation. Children are often intimidated by law enforcement or judicial authorities and may say things, including admissions that are not true, during questioning. Such comments or admissions may adversely affect their defense in court. Research shows the brains of adolescents are not fully developed until their mid-twenties, and they lack the executive decision-making skills to comprehend the long-range consequences of what they say during interview and interrogation.

MOTION TO SUPPORT (Sigler), SECONDED BY (Lawrence). Unanimous.

SB 2288 (Kyle)/HB 1925 (Jones)

TLS Bill Summary: Department of children's services - prohibits the return of a child. State Summary - As introduced, prohibits the return of a child who has been abused to any person who engaged in or failed to protect the child from the abuse without certain court findings; requires the termination of department of children's service employee who violates the prohibition. - Amends TCA Title 37.

Additional Summary Clarification: This legislation removes the word “severe” from the provisions for returning a child who has been abused to any person who abused or failed to protect the child. Currently, if the child has been a victim of “severe” child abuse, the court must find by “clear and convincing evidence that the child will be provided a safe home free from further such brutality and abuse’ before the child can be returned. The court has to ‘file written findings of fact that are the basis of its conclusions.” If the child abused by actions that do not rise to severe abuse, he/she can be returned home based on evidence that is a preponderance of the evidence.

Effect of Changes in Current Law: This law would substantially increase the burden of proof for returning children who have not suffered severe abuse.

TCCY Legislative Committee Recommended Position: OPPOSE: While TCCY never condones child abuse or failure to protect a child, this change in legislation would establish a higher burden of proof making it more difficult for children to be returned to parents who have not severely abused them or failed to protect them from severe abuse.

Juvenile courts already have the authority to object to returning a child home when the child has been committed to the Department of Children’s Services. Prior to returning the child home, the department must notify the court of its intention to place the child home for a 90-day trial home visit. If the court objects to the trial home visit, the court must notify the department in writing or set a hearing within 15 days of receiving the trial home visit notice. The court may then hold a hearing on the matter to determine whether the trial home visit is in the child’s best interest. Moreover, when exercising its exclusive jurisdiction over proceedings in which a child is alleged to be dependent or neglected, juvenile courts have discretion to control placement of a child in non-custodial matters.

The proper remedy for failing to follow a court order is a contempt proceeding, not mandating the termination of an employee pursuant to a statute.

MOTION TO OPPOSE (Shea), SECONDED BY (Taylor Gonzalez). Unanimous.

SB 2530 (Norris)/HB 1530 (McCormick)

TLS Bill Summary: Reasonable and prudent parent standard relative to foster children. Establishes the Reasonable and Prudent Parent Standard. Requires child placing agencies to designate an on-site official who can assist a caregiver and who can determine whether to allow a child to participate in extracurricular, enrichment, cultural and social activities. Prevents the caregiver and child placing agency from being liable if acting as a reasonably prudent parent except when injuries are caused by gross negligence, willful or wanton conduct, or intentional wrongdoing.

Effect of Changes in Current Law: This legislation is intended to bring Tennessee into compliance with P.L. 113-183, the *Preventing Sex Trafficking and Strengthening Families Act of 2014*. “The term ‘reasonable and prudent parent standard’ means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the

responsibility of the State to participate in extracurricular, enrichment, cultural and social activities.”

The goal of the legislation is to place an emphasis on normalcy for youth in foster care by allowing caregivers to make more decisions about the daily extracurricular and social activities of young people in their care. In the past, the child welfare systems focus on safety and protection reduced opportunities for youth in foster care to participate in activities their peers are allowed to enjoy on a routine basis. Often, young people in foster care are unable to participate in sleepovers, weekend outings or recreational sports leagues because the approval process is so onerous and time consuming.

Foster youth face a number of barriers to normalcy. Restrictive policies developed primarily with very young children in mind limit adolescents’ ability to participate in everyday activities, build and maintain relationships and develop a secure identity. Young people are often prohibited from playing sports due to risk of injury or state liability, change their hairstyle, go on a date, operate power tools or get an after school job. The structure and operations of group settings inhibits normalcy. The rules in these placements are very restrictive. Residents are limited or prohibited from using the phone and may only call those on an approved list. Bathing and restroom time may restricted or even supervised. Staff is often required to be impersonal and professional, with personal contact so limited they may be unable to provide a young person a hug at an appropriate time.

Frequent placement moves are another factor contributing to a lack of normalcy. Placement changes often require changes in school assignment resulting in loss of credits and academic delays, as well as the loss of relationships with friends and teachers. Frequent moves inhibit the ability of foster youth to build and maintain strong relationships with family members, especially siblings, former foster families and peers, a problem that often continues after foster care into adulthood. Foster youth also face stigma and heightened scrutiny, and live in fear of being exposed as a foster child. They may be teased about their family situation or face a higher rate of disciplinary actions at school than their non-foster care peers. Foster youth regularly face a lack of funds and transportation to do the same activities as their peers.

The reasonable and prudent parent standard can support young people in taking on gradually increasing levels of responsibility and leadership in their own lives, a process vital to the development of skills and capacities needed for a successful transition to adulthood.

TCCY Legislative Committee Recommended Position: SUPPORT: TCCY supports passage of the reasonable and prudent parent standard to improve the normalcy available to foster youth and assisting them in developing strong relationships and good decision-making skills, improving the prospects for a successful transition to adulthood. The 2015 Youth Transitions Advisory Council report to the General Assembly recommends passage and implementation of the standard. The reasonable and prudent parent standard will enable foster parents and caregivers the latitude to give youth in their care the same age-appropriate opportunities other youth have so they too can experience success as well as learning important life lessons and developing the coping skills necessary to deal the with the trials all face in adult life.

MOTION TO SUPPORT (Harlan), SECONDED BY (Stott). Unanimous.

SB 2531 (Norris)/HB 1531 (McCormick)

TLS Bill Summary: Termination of parental rights of a putative father. State Summary - As introduced, defines the term "putative father"; makes various changes to the termination of parental rights of a putative father. - Amends TCA Title 36, Chapter 1, Part 1.

Additional Summary Clarification: The proposed legislation amends three statutes designed to clarify the definition of putative father primarily for the purpose of terminating parental rights. The first statute, § 36-1-113(g)(9)(a), has been interpreted by the courts to exclude certain putative fathers from grounds to terminate parental rights that were meant to apply to non-legal parents. The proposal would make it simpler to terminate parental rights of putative fathers.

The second statute, § 36-1-102, would define “putative father” as a person who is not a legal parent but has met other criteria. This includes: filing with the putative father’s registry, being identified as the child’s father, being listed on the birth certificate, holding himself out as the father of the child, or participating in a DCS parenting plan. The third statute, §36-1-111(j), clarifies that a man whose presumption of paternity is rebutted shall no longer be considered a legal parent and is no longer entitled to notice or to termination of parental rights.

Currently, incarcerated persons must execute a voluntary surrender of parental rights before the warden of a state or federal penitentiary; the proposed legislation allows a surrender to also be executed before either a deputy warden or a notary public.

Effect of Changes in Current Law: The proposed legislation will simplify the voluntary surrender of parental rights’ process for incarcerated parents, the Department of Children’s Services and children involved. This will allow the child to gain permanency in more timely manner.

The bill is also needed to clarify current ambiguous statutory language that has led to court decisions that hamper expedited termination and adoptions in the case of putative fathers who either are not the child’s actual biological father or who have done little or nothing to assert their parental rights. The legislation will restore the law to its original legislative intent.

TCCY Legislative Committee Recommended Position: SUPPORT: TCCY supports changes that clarify putative father provisions in the law, make it clearer whose rights must be terminated, and facilitate the voluntary surrender process for incarcerated parents. The Department of Children’s Services experiences challenges receiving properly executed surrenders from incarcerated fathers, especially those who are incarcerated in other states, because of the requirement in current law that only allows the surrender to be executed before a warden. When termination of parental rights or a voluntary surrender is needed so children will be free and available for permanency through adoption, the process should be as clear and simple as possible.

MOTION TO SUPPORT (Sigler), SECONDED BY (Lawrence). Unanimous.

SB 2586 (Norris)/HB 1960 (Camper)

TLS Bill Summary: Juvenile Justice Realignment Act. State Summary - As introduced, enacts the "Juvenile Justice Realignment Act"; creates a task force to study the creation of a department of juvenile justice. - Amends TCA Title 4; Title 8 and Title 37.

Additional Summary Clarification: The legislation sets up a task force to study the creation of a department of juvenile justice and provides for the composition of the task force. It does not include Tennessee Commission on Children and Youth in the list of members.

Effect of Changes in Current Law: A task force would be established to study the creation of a department of juvenile justice. The bill sets out factors to study, including protection of the public, rehabilitation, prevention of future crime and delinquency, balancing accountability and public safety, perceptions of a school-to-prison pipeline, and the prevalence of mental health issues among youth in state custody.

TCCY Legislative Committee Recommended Position: OPPOSE: While normally supportive of a task force to consider significant changes in services for children, the Commission on Children and Youth is not supportive of the creation of a Department of Juvenile Justice for children who are currently served by the Department of Children's Services (DCS). In 1996, DCS was created to bring together all state custodial services for children. Prior to the single department, there were insufficiently clear guidelines regarding which department should provide services for individual children, especially adolescents. There are substantial numbers of "dual-status" or "cross-over" children in the custody of DCS – approximately 30 percent of children in custody – children who come to the attention of the state as abused or neglected children, and their subsequent behavior results in them being adjudicated delinquent. A single department facilitates better integration of services for "dual-status" youth.

The MacArthur Foundation, which has supported juvenile justice reform across the states, recommends integration of child welfare and juvenile justice as a promising practice. The Foundation reports the way states organize the administration of child welfare and juvenile justice varies widely across the country and may influence a state's ability to coordinate services between the two systems. When states centralize administration of child welfare and juvenile justice through a single state-level department, structural barriers to coordination may be reduced.

Provision of services for all children in a single department is not only more beneficial for the children; it is more cost-effective for the state. Children who are adjudicated delinquent and in non-secure placements are eligible for TennCare, federal child welfare funds, and Chafee Act funding for transitioning to adulthood, meaning there is substantial federal financial participation in the costs for their care and services rather than just state dollars. There is a need for sufficient emphasis on children who have been adjudicated delinquent, and it is important that emphasis focuses on the provision of evidence-based services that are trauma-informed and therapeutic.

All children in custody need a trauma-informed, therapeutic service delivery system that helps them move beyond the Adverse Childhood Experiences (ACEs) experienced by so many of them and to help them heal and become productive adults.

Any task force addressing major juvenile justice system changes should include representation from the Commission on Children and Youth executive director or designee.

MOTION TO OPPOSE (Taylor Gonzalez), SECONDED BY (Harlan). Unanimous.

SB 2505 (Gresham)/HB 1442 (Pody)

TLS Bill Summary: Compensation for special advocates program. Requires compensation to be awarded to a court appointed special advocates program if the compensation is awarded to a claimant who is not represented by an attorney and an employee or volunteer for the court appointed special advocates program filed the claim on behalf of the claimant or assisted the claimant in filing the claim.

Effect of Changes in Current Law: Legislation to have CASA collect fees for their services as a “volunteer” advocate is a conflict with CASA’s mission. Collection of fees for assistance in completing victim compensation claims would be a violation contract requirements for the CASA program that receive Victims of Crime Act (VOCA) funding from the Office of Criminal Justice Programs (OCJP) in the Department of Finance and Administration. TN CASA and three local programs currently receive VOCA funding, and the contract requires CASA to complete the claim for the children they serve. There is new VOCA funding with RFP’s to be released in spring 2016. This legislation could jeopardize eligibility for VOCA funding for CASA programs. Collection of fees would not comply with contract requirements and federal regulations.

TCCY Legislative Committee Recommended Position: OPPOSE: While the Commission on Children and Youth strongly supports additional funding for CASA programs in Tennessee, it does not believe compensation for filing VOCA claims is an appropriate way to achieve this goal. In addition to the concerns regarding mission and VOCA compliance, opening the door to compensation for CASA programs would start a slippery slope where other advocacy groups who assist victims in completing claims for compensation would want to be added to those who receive compensation in the future. This would have an adverse impact on the total funding available for victims who should be the beneficiaries of the funds, not the advocacy groups that assist them. Fees and compensation for victims all come from the same limited pool of funding.

MOTION TO OPPOSE (Shea), SECONDED BY (Sigler). Unanimous.

SB 2571 (Norris)/HB 1812 (Lamberth)

TLS Bill Summary: Changes to the procedure for appeals from juvenile court. State Summary - As introduced, makes various changes to the procedure for appeals from juvenile court, including stating the requirements for an interlocutory appeal of order granting or denying motion to suppress evidence in a transfer hearing. - Amends TCA Section 37-1-159.

SB 2572 (Norris)/HB 1889 (DeBerry)

TLS Bill Summary: Provisions regarding juvenile cases heard by magistrates. State Summary - As introduced, clarifies and amends various provisions regarding juvenile cases heard by magistrates; extends from five days to 10 days the period within which an appeal of the magistrate's order must be filed. - Amends TCA Section 36-1-102 and Section 37-1-107.

SB 2573 (Norris)/HB 1890 (DeBerry)

TLS Bill Summary: Juvenile court procedure - summons in proceeding. State Summary - As introduced, amends the juvenile court procedure to issue a summons in a proceeding. - Amends TCA Title 37, Chapter 1.

SB 2574 (Norris)/HB 2495 (Akbari)

TLS Bill Summary: Pretrial or judicial diversion of juveniles. State Summary - As introduced, amends juvenile court procedural requirements; grants statutory authority for pretrial or judicial diversion of juveniles. - Amends TCA Title 37

SB 2575 (Norris)/HB 2494 (Akbari)

TLS Bill Summary: Revises various provisions regarding juvenile court proceedings. State Summary - As introduced, revises various provisions regarding juvenile court proceedings, including adding requirements to a juvenile court petition and adding commencement of a proceeding by filing a citation. - Amends TCA Title 37, Chapter 1.

SR 78 (Kelsey)

TLS Bill Summary: TN Rules of Juvenile Procedure. Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, Rule 204, as adopted by the supreme court.

SR 79 (Kelsey)

TLS Bill Summary: TN Rules of Juvenile Procedure. Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, Rule 204, as adopted by the supreme court.

HR 145 (Lamberth)

TLS Bill Summary: TN Rules of Juvenile Procedure. Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, Rule 204, as adopted by the supreme court.

HR 146 (Lamberth)

TLS Bill Summary: TN Rules of Juvenile Procedure. Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, Rule 204, as adopted by the supreme court.

Effect of Changes in Current Law: As described by the Tennessee Administrative Office of the Courts, “the Court Improvement Program Work Group is a statewide multi-disciplinary group appointed by the Tennessee Supreme Court to review and address issues of safety, permanency and well-being for children and families in the child welfare system.” A sub-

committee of the Work Group, the Law Committee, meets to review state laws, rules and policies affecting children and families. Through a multi-year process, the Law Committee has been working on comprehensive and needed changes to the Tennessee Rules of Juvenile Procedure and title 37 of the Tennessee Code. Additional participants were added to the process to be sure all perspectives involved in the juvenile court process were included in discussions. The changes to title 37 also required minimal changes to title 36. The changes recommended by the Law Committee, partly captured in the above-referenced bills, will accomplish several tasks. The changes will improve process in juvenile court; remove juvenile procedure from the statutes and put it in the Tennessee Rules of Juvenile Procedure, where it belongs; and harmonize law and current practice in juvenile court where appropriate.

TCCY Legislative Committee Recommended Position: SUPPORT: TCCY supports the improvement of laws and rules that impact children and families. TCCY staff has had the opportunity to participate in a series of meetings over the past few years as the group worked to update the Tennessee Rules of Juvenile Procedure. The revised rules have been through a substantial public input process and approved by the Supreme Court. TCCY supports approval of the revised rules and the statutory changes crafted to be consistent with the revised rules. This is a major effort to streamline the statutes and rules for consistency and clarity.

MOTION TO SUPPORT (Shea), SECONDED BY (Stott). Unanimous.

SB 1674(Kyle)/HB 1468 (Clemmons)

TLS Bill Summary: Requirement for children being secured in forward-facing position. Removes requirement that any child age one through three weighing more than 20 pounds be secured in a forward facing position while traveling in a child safety seat.

SB 2345 (Dickerson)/HB 2216 (Powell)

TLS Bill Summary: Child seat requirements for child weighing over 20 lbs. State Summary - As introduced, deletes requirement that the child safety seat for a child age one through three weighing more than 20 pounds be secured in a forward-facing position. - Amends TCA Title 55, Chapter 9, Part 6.

Effect of Changes in Current Law: Current law requires children in these age groups to be in a forward-facing child restraint seat, while manufacturer recommendations and safety recommendations call for them to be rear-facing as this change in law would require.

TCCY Legislative Committee Recommended Position: SUPPORT- The design of child safety restraints has changed over time. The majority of seats currently recommend passengers under the age of two be placed in a rear facing position, which would be a violation of current law. This legislation would continue to require a child safety restraint, but would require it to be “properly used.” This would enable compliance with the latest recommendation for child safety for each manufactured safety seat. Presently persons transporting children over one year old and weighing greater than 20 pounds in a rear-facing child restraint are technically violating the law though they are complying with the latest child safety recommendations. TCCY supports this update in current law for child safety restraints to be used consistent with manufacturers recommendations as long as the provisions for child safety restraints remain mandatory and do

not become permissive.

MOTION TO SUPPORT (Stott), SECONDED BY (Lawrence). Unanimous

Tobacco and Vapor Products Legislation

SB2015 (Ketron) HB2583 (Todd)

TLS Bill Summary: Prevention of Youth Access to Tobacco and Vapor Products Act reviews. State Summary - As introduced, extends from 30 days to 60 days the time within which a person may petition for review of a civil penalty that is assessed under the Prevention of Youth Access to Tobacco and Vapor Products Act. - Amends TCA Title 39.

SB2085 (Overbey) HB2444 (McDaniel)

TLS Bill Summary: Department of agriculture - laws on tobacco products to minors online. Requires the department of agriculture to publish on its website the required annual report describing the department's enforcement efforts of state law in regard to the sale of tobacco products to minors.

SB2121 (Kelsey)/ HB2195 (Coley)

TLS Bill Summary: Retailer of smoking paraphernalia must warn minors of prohibition. State Summary - As introduced, requires a person who disseminates smoking paraphernalia to display either a sign with the international circle and slash symbolizing the prohibition of selling tobacco to minors or another permitted sign stating that state law prohibits the sale of tobacco products to minors. - Amends TCA Title 37; Title 38 and Title 39.

Effect of Changes in Current Law: It has been over 50 years since the first Surgeon General's report linking smoking to lung cancer. Since that time, smoking and tobacco use have been linked to numerous other debilitating conditions leading to disability and early death. While the number of Tennessean's using tobacco has declined significantly over the last 20 years, the state continues to have one of the highest rates of tobacco use in the nation.

It was just a little over ten years ago that smoking was banned in the Capital and Legislative Plaza. Then, as in the 200 years before, tobacco was Tennessee's cash crop. Now tobacco farming is no longer a significant source of income and smoking is no longer considered a rite of passage. Tobacco taxes have doubled and smoking is no longer permitted indoors in most businesses or public venues.

Today, children and young adults are accessing nicotine using vapor products. Available for nearly a decade, e-cigarettes, now referred to as vapor products, are battery-powered devices that turn nicotine-containing liquid into vapor that is inhaled. National data show vapor products have become more popular among teens than regular cigarettes. Because teens' brains are still developing, they are more sensitive to the effects of nicotine, and using just a few e-cigarettes could make them vulnerable to using nicotine in other forms. A recent study showed that young people who had tried e-cigarettes or vapor products were four times more likely to use regular

cigarettes or other tobacco products in the next six months. Hookahs and cigars were more popular than regular cigarettes.

Vapor products, including e-cigarettes were initially introduced as a potentially safer alternative to tobacco for smokers who were trying to cut down. Since then, they have evolved into a recreational product among many children and young adults.

TCCY Legislative Committee Recommended Position: SUPPORT: TCCY supports legislation to reduce access to all tobacco products, including vapor products, the preferred source of nicotine for young people, for children and young adults. Nicotine is considered one of the most addictive substances known to man, causing countless deaths and needless suffering. Children and young adults whose brains are still developing are more susceptible to the effects of nicotine and equally more susceptible to becoming addicted or dependent even after recreational use. Over the past two years, TCCY has worked with a broad array of advocates including the Children’s Hospital Alliance of Tennessee, Rural Health Association of Tennessee, the American Cancer Society, among others, and representatives of the tobacco industry on legislation to reduce children’s access to vapor products.

MOTION TO SUPPORT (Taylor Gonzalez), SECONDED BY (Sigler). Unanimous.

IV. Other business.

There was discussion of the need for TCCY members to contact legislators and share the TCCY positions with them, particularly in recognition of the action last year related to TCCY impact statements.

There being no further business, the Legislative Committee adjourned at 11:20 a.m.

Minutes prepared by:

Minutes approved by:

Linda O’Neal, Executive Director

Rob Mortensen, Committee Chair