S T A T E O F T E N N E S S E E
OFFICE OF THE
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Opinion No. 01-028

Applicability of Parenting Plan Act to Juvenile Court Cases

QUESTIONS

1. Does Tenn. Code Ann. § 36-6-411 exempt a juvenile court from the requirements of Tenn. Code Ann. § 36-6-401, et seq. (The Parenting Plan Act) in any matter before the juvenile court pursuant to its original jurisdiction as set out in Tenn. Code Ann. § 37-1-103?

2. Is the juvenile court required to follow the provisions of the Parenting Plan Act in matters which are before the juvenile court pursuant to its concurrent jurisdiction with other courts as set out inTenn. Code Ann. § 37-1-104?

OPINIONS

1. Because the exclusive original jurisdiction of the juvenile court does not include any matter subject to the Parenting Plan Act, the juvenile court would not be subject to the Parenting Plan Act in any matter before the juvenile court pursuant to its original jurisdiction.

2. No. The Parenting Plan Act does not apply to any matter subject to the concurrent jurisdiction of the juvenile court.

ANALYSIS

1. The first question is whether Tenn. Code Ann. § 36-6-411 exempts a juvenile court from the requirements of the Parenting Plan Act in any matter before the juvenile court pursuant to its original jurisdiction as set out in Tenn. Code Ann. § 37-1-103. Tenn. Code Ann. § 36-6-411 provides that "[n]othing in this part shall be construed to alter, modify or restrict the exclusive jurisdiction of the juvenile court pursuant to 37-1-103." Technically, this statutory provision does not operate to exclude the juvenile court from the requirements of the Parenting Plan Act. However, it is the opinion of this office that the exclusive original jurisdiction of the juvenile court does not include any matter subject to the Parenting Plan Act.

By its terms, the Parenting Plan Act applies only to actions for divorce, legal separation, annulment, or separate maintenance involving a minor child and proceedings for modification of a permanent parenting plan, excluding modifications pertaining only to child support. Tenn. Code Ann. §§ 36-6-403, 36-6-404(a), and 36-6-405. Tenn. Code Ann. § 36-6-403 requires that a temporary parenting plan be incorporated in any temporary order of the court in such actions. Any final decree or decree of modification in such actions must incorporate a permanent parenting plan, except for modifications pertaining only to child support. Tenn. Code Ann. §§ 36-6-404(a) and 36-6-405.

The exclusive original jurisdiction of the juvenile court is limited to the ten specific categories of proceedings set forth in Tenn. Code Ann. § 37-1-103. None of these categories can be read to include actions for divorce, legal separation, annulment or separate maintenance, or for modification of a permanent parenting plan. Therefore, the juvenile court would not be subject to the Parenting Plan Act in any matter before the juvenile court pursuant to its exclusive original jurisdiction.

2. The second question is whether the juvenile court is required to follow the provisions of the Parenting Plan Act in matters which are before the juvenile court pursuant to its concurrent jurisdiction with other courts as set out inTenn. Code Ann. § 37-1-104. For the same reasons stated above, the answer is no. The Parenting Plan Act applies only to actions for divorce, legal separation, annulment, or separate maintenance involving a minor child and proceedings for modification of a permanent parenting plan, excluding modifications pertaining only to child support. Tenn. Code Ann. §§ 36-6-403, 36-6-404(a), and 36-6-405. The juvenile court has no jurisdiction over any of these proceedings.

The juvenile court has concurrent jurisdiction with the probate court over three categories of proceedings. Tenn. Code Ann. § 37-1-104(a). None of these categories can be read to include actions for divorce, legal separation, annulment, separate maintenance, or modification of a permanent parenting plan. Although Tenn. Code Ann. § 37-1-104(a)(2) provides that the juvenile court has concurrent jurisdiction with the probate courts to "[d]etermine the custody or appoint a guardian of the person of a child," this language has been interpreted to limit the juvenile court's subject matter jurisdiction to guardianship proceedings since the juvenile court's jurisdiction derives from that of the probate court. *Baltz v. Knight*, 1998 WL 787526 (Tenn. Ct. App., November 13, 1998)(No. 01A01-9606-JV-00263).

The juvenile court also has concurrent jurisdiction with the general sessions court "for the offense of contributing to the delinquency or unruly conduct of a minor" and with the circuit and chancery courts to terminate parental rights. Tenn. Code Ann. §§ 37-1-104(b) and (c). Neither of these categories of proceedings include actions for divorce, legal separation, annulment, separate maintenance, or modification of a permanent parenting plan.

The juvenile court also "has concurrent jurisdiction and statewide jurisdiction with other courts having the jurisdiction to order support for minor children and [has] statewide jurisdiction over the parties involved in the case." Tenn. Code Ann. § 37-1-104(d)(1)(A). However, the Parenting Plan Act does not

require a parenting plan in proceedings for modification of a permanent parenting plan where the modifications pertain only to child support. Tenn. Code Ann. § 36-6-405. In any event, the juvenile court would not have jurisdiction to modify a support order entered pursuant to the Parenting Plan Act. Where a court has issued an order for child support as part of a divorce or legal separation proceeding, the order or decree remains in that court's control. Tenn. Code Ann. § 36-5-101(a)(1).

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