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Opinion No. 05-130

Commitment to State Custody Following Juvenile Probation Revocation

QUESTION

When a juvenile has been adjudicated delinquent prior to his eighteenth birthday and placed on state probation pursuant to Tenn. Code Ann. § 37-1-131(a)(2), and the juvenile court extends jurisdiction on the delinquent juvenile until his or her nineteenth birthday pursuant to Tenn. Code Ann. § 37-1-103(c), may the juvenile court punish probation violations occurring after age eighteen by placing the delinquent child in state custody pursuant to the provisions of Rule 35, Tennessee Rules of Juvenile Procedure, and Tenn. Code Ann. § 37-1-131(a)(4)?

OPINION

Yes. Having extended its jurisdiction over a child until age nineteen, the juvenile court may punish probation violations of delinquent children occurring after age eighteen in the same manner as those occurring prior to the age of eighteen.

ANALYSIS

Pursuant to Rule 35(b)(2) of the Tennessee Rules of Juvenile Procedure, a juvenile judge may make “any disposition which would have been permissible in the original proceeding” if a delinquent child is adjudicated by a preponderance of the evidence to have violated his or her probation. In that regard, Tenn. Code Ann. § 37-1-131(a)(4) provides that upon adjudicating a child delinquent in the original proceeding, the juvenile court may, among other things, “commit the child to the department of children’s services, which commitment shall not extend past the child’s nineteenth birthday.”

Under certain circumstances, a juvenile court may extend its jurisdiction over a child until age nineteen. *See* Tenn. Code Ann. § 37-1-103(c). So long as the juvenile court complies with the requirements of Tenn. Code Ann. § 37-1-103(c), there appears to be no statutory prohibition against placing a child into state custody after the age of eighteen; indeed, Tenn. Code Ann. § 37-1-131(a)(4) appears to contemplate that very result by limiting its application to the child's nineteenth birthday.¹

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¹It should be noted that this result applies only to delinquent, as opposed to unruly, children. Tenn. Code Ann. § 37-1-102(b)(1)(C) specifically provides that, except for cases involving mental illness, “[i]n no event shall a person (18) years of age or older be committed to or remain in custody of the department of children’s services by virtue of being adjudicated dependent and neglected, [or] unruly”