

AN ACT

Codification
District of
Columbia
Official Code

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To establish the Department of Youth Rehabilitation Services and provide for its composition, staff, powers, and duties; and to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Department of Youth Rehabilitation Services to the list of subordinate agencies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Department of Youth Rehabilitation Services Establishment Act of 2004”.

TITLE I.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) “Aftercare services” means programs and services designed to provide care, supervision, and control over children released from facilities.

(2) “Committed” means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(3) “Contracted provider” means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department’s care and custody.

(4) “Conviction” means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of *nolo contendere*, or a plea of guilty to a criminal charge enumerated in section 105(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5) (A) “Custody” means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

- (i) Physical custody and the determination of where and with whom the minor shall live;
- (ii) The right and duty to protect, train, and discipline the minor; and
- (iii) The responsibility to provide the minor with food, shelter, education,

and ordinary medical care.

(B) A Family Court order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) "Department" means the Department of Youth Rehabilitation Services.

(7) "Detained" means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with D.C. Official Code § 16-2312.

(8) "Facilities" means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(10) "Person in Need of Supervision" or "PINS" means a "child in need of supervision" as that term is defined by D.C. Official Code § 16-2301(8).

(11) "Rehabilitative services" means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic competency skills necessary to reintegrate into their home and community-based settings.

(12) "Youth" means a "child" as that term is defined by D.C. Official Code § 16-2301(3). The terms "juvenile," "child," and "resident" appearing in this title are used interchangeably.

(13) "Youth residential facility" means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to D.C. Official Code § 16-2312 or a dispositional hearing held pursuant to D.C. Official Code § 16-2317.

Sec. 102. Establishment and purposes of the Department of Youth Rehabilitation Services.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Department of Youth Rehabilitation Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the government of the District of Columbia. The Department shall lead the reform of the District's juvenile justice system by coordinating the collaborative efforts of government agencies, contracted providers, labor, and community leaders to:

(1) Improve the security, supervision, and rehabilitation services provided to committed and detained juvenile offenders and Persons in Need of Supervision ("PINS");

(2) Develop and maintain a holistic, family-oriented approach to the provision of youth services that emphasizes youth and parental responsibility so as to reduce juvenile crime, delinquency, and recidivism; and

(3) Develop and maintain state-of-the-art service programs, delivery systems, and facilities that will transform the District's juvenile justice system into a national model.

(b) The Department shall be headed by a Director, who shall report to the Mayor. The Director shall be appointed by the Mayor with the advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(c) The Director shall have a minimum education of a Masters Degree in Criminal Justice, Social Work, or some related field, or shall possess equivalent work-related experience in the management of juvenile justice programs.

(d) The Director shall have authority over the Department, its functions, and personnel, including the power to re-delegate to employees authority as, in the judgment of the Director, is warranted in the interests of efficiency and sound administration.

(e) The Director shall have authority to organize and reorganize the personnel and property transferred herein within any organizational unit of the Department, including creating offices within the Department, as necessary, and exercising any other powers necessary and appropriate to implement the provisions of this title.

(f) The Director shall have authority to implement an aggressive, District-wide program of reform within the juvenile justice system that leads to a system that can serve as a nationwide model.

Sec. 103. Organization.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this title. There is hereby established in the Department:

(1) The Office of the Director, which shall be responsible for all administrative activities, such as human resources, technology and information services, facilities management and transportation, contracting and procurement, and budget and financial services, with subordinate staff offices responsible for overall management responsibility of the office;

(2) The Division of Secure Programs, whose Deputy Director shall be responsible for operations at the Oak Hill Youth Center, the Youth Services Center, and any other Department secure facility;

(3) The Division of Court and Community Programs, whose Deputy Director shall be responsible for aftercare services for committed youth and prevention programs;

(4) The Division of Performance Management, whose Deputy Director shall be responsible for licensure, regulation, technical assistance, training, quality assurance, quality improvement, risk management, program evaluation, data collection, contract monitoring, policy formulation, legislative affairs, and monitoring and reporting on compliance with standards, policies, court orders, laws, rules, and regulations;

(5) The Office of Internal Integrity, which shall be responsible for the swift and competent internal investigations into allegations and indications of unprofessional and unlawful conduct by employees or contractors of the Department; and

(6) The Office of the General Counsel, which shall be responsible for reviewing legal matters pertaining to the Department and its programs, analyzing existing or proposed federal or local legislation and rules, managing the development of new legislation and rules, and coordinating legal services to the Department, and shall be headed by a General Counsel, who shall be in the Senior Executive Attorney Service of the Legal Service as an at-will employee under the direction and control of the Attorney General for the District of Columbia.

(b) Notwithstanding the proposed organization established in subsection (a) of this section, the Director of the Department shall have the authority, pursuant to section 102(e), to organize and reorganize the organizational structure set forth in this section.

Sec. 104. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths, needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the

services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state-of-the-art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system; and

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department.

Sec. 105. Special authorities of the Department.

(a) When the Department has physical custody of a youth pursuant to D.C. Official Code § 16-2320, it may:

(1) Authorize a medical evaluation, emergency medical, surgical, or dental treatment, a psychiatric evaluation, or emergency outpatient psychiatric treatment, when reasonable efforts to secure the consent of the youth's parents or legal guardian have been made, but a parent or legal guardian cannot be consulted; and

(2) Authorize non-emergency, routine outpatient medical, dental, and psychiatric treatment or an autopsy, when reasonable efforts to consult the parent or legal guardian have been made, but a parent or legal guardian cannot be consulted.

(b) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities and in doing so it may require:

(1) Random searches of all buildings and grounds for contraband;

(2) Random and probable cause searches of persons and personal property entering or on the grounds for contraband;

(3) Use of metal detectors and visual inspections, dog sniffers, or other means to inspect any bag, luggage, or container being carried into or on the grounds for contraband; and

(4) Seizure, confiscation, and retention of contraband as a result of a search or inspection conducted pursuant to paragraphs (1) through (3) of this subsection.

(c) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall require the testing of all prospective and existing Department staff and contractual employees or other applicable personnel for drug and alcohol use, in accordance with section 2022 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 23, 1999 (D.C. Law 12-227; D.C. Official Code § 1-620.22).

(d) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall test youth for the presence of substances, which may pose risks to the health and safety of youth or others.

(e) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff assigned to any Department facility or any provider of services to youth in any Department- contracted facility, group home, or shelter to provide National Crime Information Center (“NCIC”) criminal background checks in accordance with Title II of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-607).

(f) The Department shall protect the safety, security, discipline, and order of Department facilities, residential facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff at any Department-owned or contract facility, or program that provides services to youth in the juvenile justice system, be subject to a child protection registry check in the District of Columbia and their current and prior states of residence.

(g) The Department may:

(1) Prohibit the hiring of or require the termination of persons seeking employment or employed by the Department, or providers of services either under contract, grant, or agreement, or persons who will provide or do provide direct services or who have access to youth in the juvenile justice system, who have been convicted by a court of competent jurisdiction of:

- (A) Child abuse or child neglect;
- (B) Rape or sexual assault;
- (C) Homicide or felony assault; or
- (D) Any other crime, as defined by rules issued by the Mayor;

(2) Require all Department facilities or programs under contract, grant, or agreement to obtain written approval of the Department prior to employing any person who has been convicted or has served a sentence in the past 10 years for any of the following offenses or their equivalents:

- (A) Fraud;
- (B) Burglary;
- (C) Drug-related crimes; or
- (D) Any other crime, as defined by rules issued by the Mayor; and

(3) Prohibit the assignment of persons employed by the Department, or providers of services, either under contract, grant, or agreement, that have access to youth into positions that may place them in contact with youth if that person is alleged to be a perpetrator of abuse or neglect in a currently pending child abuse or neglect investigation.

(h) The Department may take any other actions necessary to promote the safety and well-being of the youth in the Department's custody.

(i) A criminal or civil conviction for any of the charges listed within subsection (f)(1) of this section or identification as a perpetrator of abuse or neglect as determined by the investigation conducted pursuant to subsection (f) of this section in this or any jurisdiction shall constitute cause for termination.

(j) Except as expressly provided by this title, all information obtained pursuant to this section shall be considered confidential and only released to appropriate officials, as determined by the Director of the Department.

Sec. 106. Confidentiality of youth records.

(a) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall only be released pursuant to D.C. Official Code § 16-2332.

(b) Notwithstanding the confidentiality requirements of this section, the Mayor may establish rules for the disclosure of electronic Department data to other District government agencies statutorily charged with the care, treatment, and rehabilitation of youth in the District's custody for purposes of coordination care, treatment, and rehabilitation services for youth and Department tracking and trending reports; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated in this subsection.

Sec. 107. Rules; authority to execute contracts and grants.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this title.

(b) The Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this title.

Sec. 108. Transfers.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Youth Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions and operations of the Department of Human Services as set forth in, and utilized to carry out, section III (S) and

III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(b) All of the authority and functions of the Department of Human Services as set forth in section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(c) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Youth Services Administration shall become the property of the Department.

(d) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the "Compact Administrator" of the Interstate Compact on the Placement of Children, as authorized by the Interstate Compact on the Placement of Children Authorization Act of 1989, effective September 20, 1989 (D.C. Law 8-30; D.C. Official Code § 4-1421 *et seq.*), shall become the property of the Department.

(e) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Youth Services Administration of the Department of Human Services in operating and regulating secure and residential facilities, juvenile justice services, programs, and supports, shall be transferred to the Department.

(f) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the Public Employee Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Youth Services Administration of the Department of Human Services, if those agreements have been approved by the Council, unless Council approval is not required by law, and, during a control year, as defined in D.C. Official Code § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(g) Every employee of the Youth Services Administration shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Department of Human Services, Youth Services Administration, or other department, at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided

for in section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3375; D.C. Official Code § 44-906).

(h) The following rules and regulations pertaining to the licensing, oversight, and regulation of residential placement facilities for detained, delinquent youth and PINS shall remain in full force and effect unless and until repealed or superseded by action of the Department:

(1) Chapter 62 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities and Youth Group Homes); provided, that the Department shall perform all functions that Chapter 62 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, pursuant to the authority granted by the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986 (D.C. Law 6-139; D.C. Official Code § 7-2101 *et seq.*), except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(2) Chapter 63 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Independent Living program for Adolescents and Young Adults); provided, that the Department shall perform all functions that Chapter 63 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(3) Chapter 12 of Title 29 of the District of Columbia Municipal Regulations (Community Placement of Juvenile Offenders); provided, that the Department shall perform all functions that Chapter 12 vests in the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

Sec. 109. Delegation and redelegation of authority.

The Department is the successor in interest to all committed and detained youth and Person in Need of Supervision related authority delegated to the Department of Human Services, and the Director of the Department is authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the Department of Human Services.

Sec. 110. Repealer.

All organizational orders and parts of orders in conflict with any of the provisions of this title are repealed, except that any regulations adopted or promulgated by virtue of the

authority granted by these orders shall remain in force until properly revised, amended, or repealed.

TITLE II.

Sec. 201. Section 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)), is amended as follows:

**Amend
§ 1-603.01**

(a) Paragraph (51) is amended by striking the word "and" at the end and inserting a semicolon in its place.

(b) Paragraph (52) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(c) A new paragraph (53) is added to read as follows:

“(53) Department of Youth Rehabilitation Services.”.

TITLE III.

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia