

PUBLIC ACTS, 1999

CHAPTER NO. 508

HOUSE BILL NO. 1656

By Representatives Walley, Brenda Turner, Scroggs, Bittle, Caldwell, Hargrove, Kisber, Pruitt, Langster, Harwell, Lewis

Substituted for: Senate Bill No. 1330

By Senator Graves

AN ACT to amend Tennessee Code Annotated, Title 36; Title 37; Title 38 and Title 39, relative to foster care and the Department of Children's Services.

WHEREAS, the General Assembly recognizes that provision of adequate foster care services to Tennessee children is a matter of the highest priority; and

WHEREAS, the special house task force to study foster care was created to permit an open forum for assessing the strengths and weaknesses of the children's services system in providing foster care; and

WHEREAS, the task force consisted of Representative Page Walley, Chairman, and Representatives Butch Lewis, Beth Halteman-Harwell, Mary Pruitt and Joe Kent; and

WHEREAS, the task force heard testimony and received reports and information from numerous concerned citizens and groups including the Child Welfare League of America, the office of the Comptroller of the Treasury, the Department of Children's Services, the Tennessee Commission on Children and Youth and the Tennessee Family Institute; now therefore

WHEREAS, the Child Welfare League of America filed with the committee its report entitled "Tennessee Department of Children's Services: Review of the Foster Care and Adoptions Programs, First Quarterly Report which was dated April 6, 1999;

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

SECTION 1. The General Assembly, in the interest of public health, safety and welfare, requires the Department of Children's Services to expeditiously and administratively implement the various recommendations of the Child Welfare League of America which do not require legislative authorization. Those recommendations include:

(1) Full implementation of the Department of Children's Services, including appropriate staff and system consolidation, training and cross-training and provision of adequate office space;

(2) Development of a three-year plan related to foster care and adoption services, including development of adequate information concerning caseload, workload and staff responsibilities;

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(3) Resolution of interagency issues related to access to, and adequacy of, services provided under TennCare for children in state custody, including coordination with affected agencies; and

(4) Review of the roles of the children's services agencies ("CSAs") to ensure sufficient definition and separation from the department's responsibilities, with consideration of charging the CSAs with lead responsibility for non-custodial children and families while DCS retains lead responsibility for children in state custody.

SECTION 2. It is the intent of the General Assembly that the Department of Children's Services shall enhance foster care services in the areas of residential treatment, attorney services, adoption services, reunification, case management and staff training to implement, to the full extent of funding appropriated to it, the recommendations of the child welfare league of America.

SECTION 3. The Department of Children's Services shall report to the House Committee on Children and Family Affairs and the Select Committee on Children and Youth no later than January 15th of each year for the next three (3) years, beginning on January 15, 2000, regarding its implementation of the above recommendations.

SECTION 4. Tennessee Code Annotated, Section 37-2-415(a), is amended by inserting in the second sentence the language "or through an agency which contracts with the department to place children in foster care," between the language "children's services," and the words "pursuant to".

SECTION 5. Tennessee Code Annotated, Section 37-5-105(4) is amended by adding the following at the end of such subsection:

Such annual report shall contain information regarding foster care services, including definitions, racial composition, and statutory or regulatory authority where appropriate as to the following:

(A) Placement Information

(i) Total number of children in foster care by region and segmented by:

(a) Level of placement (I-IV)

(b) Placement type (DCS foster home, continuum contracts, pre-adoptive/adoptive, diagnostic shelter, emergency shelter, medical/surgical hospital, miscellaneous, specialized residential school, trial home visit)

(c) Average length of custody

(d) Number of DCS foster care placements currently available

(B) Social Services Caseload Information

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(i) Total social services case managers by region and segmented by:

- (a) Case manager slots
- (b) Actual filled slots
- (c) Average salary
- (d) Average social services caseload
- (e) Range of social services caseload

(C) Legal Support by Region

(i) Total number of attorneys and paralegal staff

- (a) Number of attorney slots
- (b) Number of attorney filled slots
- (c) Number of paralegal slots
- (d) Number of paralegal filled slots

SECTION 6. Tennessee Code Annotated, Section 37-1-116, is amended by adding the following as a new, appropriately designated subsection:

(_) (1) Notwithstanding any provision of law to the contrary, no child alleged to be delinquent and meeting any of the criteria under this subsection nor any child committed to the Department of Children's Services as a delinquent child and meeting any of the criteria under this subsection shall be held in shelter care authorized by this section with a child alleged to be dependent or neglected unless the following are satisfied:

(i) There is total separation between facility spatial areas such that there could be no haphazard or accidental contact between a child alleged to be delinquent, or committed as delinquent, who meets the criteria of this subsection and a child alleged to be dependent or neglected; and

(ii) There is total separation in all program activities between children alleged to be delinquent, or committed as delinquent, who meet the criteria of this subsection and children alleged to be dependent or neglected, including all program activities listed in subdivision (5)(i)(1)(B) and total separation of any staff for such children as listed in (5)(i)(1)(C).

(2) The criteria to be used under this subsection, along with an allegation of delinquency or commitment to the department as delinquent, are:

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(A) the child has been found to be delinquent or is alleged to be delinquent based upon a felony offense constituting a crime against a person or persons; or

(B) the child has prior commitments to the Department of Children's Services as a result of having committed a felony offense or offenses which constitute a crime against a person or persons; or

(C) the child has been found to be delinquent or is alleged to be delinquent based upon a felony drug offense; or

(D) the child has prior commitments to the Department of Children's Services as a result of having committed a felony drug offense; or

(E) the child has a history of prior convictions for felony offenses which constitute crimes against persons or felony drug offenses, even though the youth has never been committed to the Department of Children's Services.

SECTION 7. Tennessee Code Annotated, Section 37-1-130, is amended by adding the following at the end of subsection (b):

Any disposition under this section shall be implemented as soon as possible after entry of the court's order. A disposition under subsection (a)(2) or (3) shall, in no event, result in the child's detention in shelter care, as defined in Section 37-1-116, or other temporary placement, without provision of necessary services consistent with the child's assessments or evaluations, in excess of thirty (30) days after entry of the court's order.

SECTION 8. Tennessee Code Annotated, Section 37-1-132(b), is amended by adding the following as a new, appropriately numbered subdivision:

() A disposition under this section shall, in no event, result in the child's detention in shelter care, as defined in Section 37-1-116, or other temporary placement, without provision of necessary services consistent with the child's assessments or evaluations, in excess of thirty (30) days after entry of the court's order.

SECTION 9. Tennessee Code Annotated, Section 37-1-150, is amended by deleting subdivision (a)(3) in its entirety and by substituting instead the following:

(3) Reasonable compensation for a guardian ad litem, except that in the case of indigents, the state, through the administrative office of the courts, shall pay for the guardian ad litem required by §37-1-149 for proceedings arising under Part 4 of this chapter. The Supreme Court shall prescribe by rule the nature of the expense for which compensation may be allowed hereunder, and such limitations and conditions for such compensation as it deems appropriate, subject to the provisions of this subdivision. Such rules shall specify the form and content of applications for compensation under this subdivision. The court may adopt such other rules related to this subdivision as it deems appropriate in the public interest. Provided, that no compensation ordered to be paid shall exceed the maximum amount of one hundred dollars (\$100) per day of hearing, with a maximum total compensation for all days of five hundred dollars (\$500) as

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allowed by subsection (e) for attorneys appointed to represent juveniles accused of being delinquent.

SECTION 10. Tennessee Code Annotated, Section 37-2-415, is amended by inserting the following language as a new, appropriately designated subsection:

(_) At the time of placement of a child in a foster home, and no later than at the time the foster care placement contract is signed, the foster parent shall be informed, in writing, through a succinct checklist form, of all information that is available to the department regarding the child's:

- (1) pending petitions, or adjudications of delinquency when the conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping;
- (2) behavioral issues which may affect the care and supervision of the child;
- (3) history of physical or sexual abuse; and
- (4) special medical or psychological needs of the child.

All information shall remain confidential and not subject to disclosure to any person by the foster parent.

SECTION 11. Tennessee Code Annotated, Section 37-2-415(a), is amended by inserting in the second sentence the language "or through an agency which contracts with the department to place children in foster care," between the language "children's services," and the words "pursuant to".

SECTION 12. The Department of Children's Services shall report at least once every sixty (60) days, or as often as requested, to the Special Joint Task Force to study foster care; the General Welfare, Health and Human Resources Committee of the Senate; the Health and Human Resources Committee of the House of Representatives; the Children and Family Affairs Committee of the House of Representatives; and the Select Joint Committee on Children and Youth. Such periodic reports shall describe the current implementation status of the various provisions of this act.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

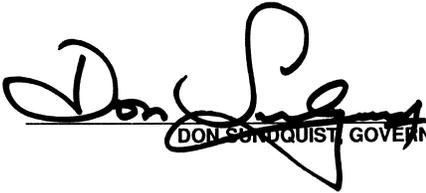
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PASSED: May 27, 1999


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR