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124th General Assembly
(As Passed by the General Assembly)

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Sens. Oelslager, Spada, Amstutz, McLin

Effective date: February 19, 2002

ACT SUMMARY

- Requires each county to specifically develop a comprehensive joint service plan instead of just establishing procedures for the development of such a plan as required under existing law.
- Requires each county comprehensive joint service plan to designate service responsibilities among the various state and local agencies that provide services to children and families and to include a service coordination process for dealing with alleged unruly children, which process must include methods to divert the children from the juvenile court system, and identifies certain elements that may be included in the diversion methods.
- Permits the service coordination process established under the act to provide for assessing the needs and strengths of the child and the child's family and the services needed; designate the person or agency to conduct the assessments and the instruments used to make the assessments; designate the agency to provide case management services; emphasize the child's personal responsibilities and parental responsibilities; and involve local law enforcement agencies and officials.

- Authorizes each county to review and revise the service coordination process based on the availability of TANF funds or to the extent resources are available from any other federal, state, or local funds.
- Permits a juvenile court to hold a complaint alleging a child to be unruly in abeyance pending the child's successful completion of actions that constitute a method to divert the child from the juvenile court.
- Makes changes and additions to the dispositions a court may order for a child adjudicated to be an unruly child.
- Permits a juvenile court and the Ohio Department of Job and Family Services to enter into an agreement to reimburse the court for foster care maintenance costs and associated administrative and training costs incurred for a Title IV-E eligible child who is adjudicated an unruly child or a delinquent child and subjected to a specified disposition the court determines proper or who has been adjudicated a delinquent child for being a chronic truant or a repeat habitual truant and who receives a specified type of disposition.
- Requires the county dispute resolution process governing disputes over the provision of services to certain children to be applied to disputes concerning services to children who are alleged to be unruly children.
- Permits the Ohio Family and Children First Cabinet Council to identify, collect, and maintain information and data concerning alleged or adjudicated unruly children and children at risk of being alleged or adjudicated unruly children, requires the Council to develop and distribute advisory guidance to each county family and children first council and other key constituencies regarding the county councils' development of their local service coordination process, and requires the Council to appoint a committee to evaluate the implementation of specified laws regarding TANF Youth Diversion Programs and county service coordination processes.

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CONTENT AND OPERATION

Diversion of unruly children from the juvenile court system

Addition to county comprehensive joint service plan

Continuing law. Under continuing law, each county is required to develop a county service coordination mechanism regarding the needs of children and their families in specified contexts. Among the specified things that must be included in the mechanism is a procedure for development of a comprehensive joint service plan that designates service responsibilities among the various state and local agencies that provide services to children and their families, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians or custodians are voluntarily seeking services (R.C. 121.37(C)(3)).

Operation of the act--mandatory elements. The act requires each county, in addition to specifying a procedure for developing the plan, to also actually *develop* a comprehensive joint service plan. The plan must designate the service responsibilities described under "**Continuing law**" and also must include a service coordination process for dealing with a child who is alleged to be an unruly child. The process must include methods to divert the child from the juvenile court system. (R.C. 121.37(C)(3) and (D).)

Operation of the act--permissive elements of the diversion method. The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following (R.C. 121.37(E)(2)):

(1) The preparation of a juvenile court complaint alleging the child to be an unruly child and notifying the child and the parents, guardian, or custodian that the

complaint has been prepared to encourage them to comply with other methods to divert the child from the juvenile court system;

(2) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;

(3) A method for dealing with short-term crisis situations involving a confrontation between the child and the parents, guardian, or custodian;

(4) A method to provide the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;

(5) A program to provide a mentor to the child or the parents, guardian, or custodian and one to provide parenting education to the parents, guardian, or custodian;

(6) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school;

(7) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio Family and Children First Cabinet Council (see "**New duties of the Ohio Family and Children First Cabinet Council**," below).

Operation of the act--permissive elements of the process. The act also provides that the service coordination process may include, but is not limited to, the following (R.C. 121.37(E)(1)):

(1) An assessment of the needs and strengths of the child and the child's family and the services the child and child's family need;

(2) Designation of the person or agency to conduct the assessment of the child and the child's family described in the preceding paragraph and designation of the instrument or instruments used to conduct the assessment;

(3) Designation of the agency to provide case management services to the child and the child's family;

(4) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian;

(5) Involvement of local law enforcement agencies and officials.



Operation of the act--revision of service coordination process based on the availability of funds. The act authorizes each county to review and revise the service coordination process described above based on the availability of TANF funds or to the extent resources are available from any other federal, state, or local funds (R.C. 121.37(F)).¹

Holding juvenile complaints in abeyance for diversion

The act authorizes a juvenile court in which a complaint alleging a child to be an unruly child is filed to hold the complaint in abeyance pending the child's successful completion of actions that constitute a method described in the act to divert the child from the juvenile court system or another method the court considers satisfactory. The method may be adopted by a county pursuant to the act's provisions described above or it may be another method that the court considers satisfactory. If the child completes the actions to the court's satisfaction, the court may dismiss the complaint. If the child fails to complete the actions to the court's satisfaction, the court may consider the complaint. (R.C. 2151.27(F).)

Changes and additions to dispositions for children adjudicated unruly

Continuing law--in effect on and after January 1, 2002

Unruly child dispositions in general. Under continuing law, if a juvenile court that adjudicates a child to be an unruly child, the court may do any of the following as a dispositional order (R.C. 2151.354(A)(1) to (5)):

(1) Make any disposition that can be imposed for a child adjudicated to be an abused, neglected, or dependent child;²

(2) Place the child on community control under any sanctions, services, and conditions that the court prescribes;

(3) Suspend or revoke the child's driver's license or permit and suspend or revoke the registration of all motor vehicles registered in the child's name;

¹ "TANF funds" are funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended.

² Examples of these dispositions include placing the child in protective supervision; committing the child to the temporary custody of a public children services agency, private child placing agency, private noncustodial agency, either parent, relative, or a probation officer for placement in a certified foster home or other home approved by the court; or committing the child to the permanent custody of a public children services agency or a private child placing agency (R.C. 2151.353).

(4) Commit the child to the temporary or permanent custody of the court.

Disposition when a prior unruly child disposition is inadequate.

Continuing law also provides that if, after making any of the dispositions described under paragraphs (1), (2), or (3), above, the court finds upon further hearing that the child is not amenable to treatment or rehabilitation under that disposition, make any of a specified list of dispositions authorized for adjudicated delinquent children, *except that the child may not be committed to or placed in a secure correctional facility, and commitment to or placement in a detention facility may not exceed 24 hours unless authorized by Ohio law governing where such a child may be held or the Interstate Compact on Juveniles (R.C. 2151.354(A)(5)).*

The specified list of dispositions authorized for adjudicated delinquent children that a court may utilize for an adjudicated unruly child in the circumstances described in the preceding paragraph are (R.C. 2152.19(A)(1), (3), (4), and (7)--not in the act):

(1) Any order that is authorized for the care and protection of an abused, neglected, or dependent child;

(2) Place the child on community control under any sanctions, services, and conditions that the court prescribes that includes, but is not limited to, the following sanctions and conditions:

(a) A period of basic probation supervision in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(b) A period of intensive probation supervision in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required each day to report to and leave a center or another approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(d) A period of community service of up to 500 hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to 200 hours for an act that would be a misdemeanor of the second, third, or fourth

degree if committed by an adult, or up to 30 hours for an act that would be a minor misdemeanor if committed by an adult;

(e) A requirement that the child obtain a high school diploma, a certificate of high school equivalence, vocational training, or employment;

(f) A period of drug and alcohol use monitoring;

(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(i) A requirement that the child serve monitored time;

(j) A period of house arrest with or without electronic monitoring;

(k) A period of electronic monitoring without house arrest or electronically monitored house arrest that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act;

(l) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child or a suspension of the registration of all motor vehicles registered in the name of the child.

(3) Commit the child to the custody of the court;

(4) Make any further disposition that the court finds proper, except that the child may not be placed in a state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held or in a community corrections facility in specified circumstances.

Operation of the act

Under the act, if a child is adjudicated an unruly child, in addition to the existing dispositions for an unruly child described above in (1) to (4) under "**Unruly child dispositions in general**," the court may make any further disposition of the child the court finds proper that is consistent with Ohio law governing where such a child may be held (existing R.C. 2151.312--not in the act) and consistent with the Interstate Compact on Juveniles enacted in Ohio (R.C. 2151.354(A)(5)).

The act also revises the existing provision described above in "**Disposition when a prior unruly child disposition is inadequate.**" As described above, the existing provision imposes a limitation on the juvenile court in making the delinquency dispositions that generally prohibits the child from being committed to or placed in a secure correctional facility or committed to or placed in a detention facility for more than 24 hours. Under the act, the limitation on these delinquency commitments is changed to specify only that they must be *consistent with Ohio law governing where such a child may be held and with the Interstate Compact on Juveniles.* (R.C. 2151.354(A)(6).)

Title IV-E reimbursement to juvenile court

Under prior existing law, a juvenile judge could enter into an agreement with the Ohio Department of Job and Family Services for the purpose of reimbursement of the court for foster care maintenance costs and associated administrative and training costs incurred on behalf of a child in the temporary or permanent custody of the court and eligible for payments under Title IV-E of the federal Social Security Act (R.C. 2151.152).³ The act changes this provision to permit the agreement to provide reimbursement not just for a Title IV-E-eligible child in the temporary or permanent custody of the court but also for a Title IV-E-eligible child who is one of the following (R.C. 2151.152):

(1) Adjudicated an unruly child and subject to an unruly child disposition under the provision enacted by the act in R.C. 2151.354(A)(5), that the court finds proper and is consistent with Ohio law governing where such a child may be held and consistent with the Interstate Compact on Juveniles;

(2) Adjudicated a delinquent child and subject to any "further delinquent child" disposition that the court finds proper and that is permitted under R.C. 2152.19(A)(7));

(3) Adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and who receives a delinquent child disposition permitted under R.C. 2152.19(A)(6)(a), except, apparently, a requirement to participate in a truancy prevention mediation program (see **COMMENT 1**).

Application of the dispute resolution process

Under continuing law, each county is required to have a local dispute resolution process as part of its county service coordination mechanism. The

³ *Title IV-E provides federal funds to states for adoption assistance for children with special needs, foster care, and transitional independent living programs.*

process must be used first to resolve disputes among the agencies represented on the county children and families first council concerning the provision of services to children, including abused, neglected, dependent, unruly, or delinquent children under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services.⁴ The act expands the list of children about whom service disputes are to be resolved by the dispute resolution process to also include alleged unruly children. (R.C. 121.37(C)(4).)

New authority and duties of the Ohio Family and Children First Cabinet Council

General authority

Continuing law creates the Ohio Family and Children First Cabinet Council and states that the purpose of the Cabinet Council is to help families seeking government services. In seeking to fulfill its purpose, continuing law authorizes the Cabinet Council to take certain actions. The act expands this authority of the Cabinet Council by also permitting the Cabinet Council to do any of the following in seeking to fulfill its purpose (R.C. 121.37(A)(2)(h) through (k)):

(1) Identify public and private funding sources for services provided to alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children, including regulations governing access to and use of the services;

(2) Collect information provided by local communities regarding successful programs for prevention, intervention, and treatment of unruly behavior, including evaluations of the programs;

⁴ *Each board of county commissioners is required to establish a county family and children first council; the members of the council generally consist of local public and private agencies and groups that fund, advocate, or provide services to children and families. A county council must provide for the following: (1) referrals to the Ohio Family and Children First Cabinet Council of those children for whom the county council cannot provide adequate services, (2) development and implementation of a process that annually evaluates and prioritizes services, fills service gaps where possible, and invents new approaches to achieve better results for families and children, (3) participation in the development of a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, (4) maintenance of an accountability system to monitor the county council's progress in achieving results for families and children, and (5) establishment of a mechanism to ensure ongoing input from a broad representation of families who are receiving services within the county system. (R.C. 121.37(B).)*

(3) Identify and disseminate publications regarding the types of children identified above in (1) and regarding programs serving the types of children;

(4) Maintain an inventory of strategic planning facilitators for use by government or nonprofit entities that serve the types of children identified above in (1).

Advisory guidance and committee to evaluate implementation

The act specifies that, not later than 30 days after its effective date, the Ohio Family and Children First Cabinet Council must develop and distribute advisory guidance to each county family and children first council and to any other key relevant constituency that the Cabinet Council identifies. The Cabinet Council must design the advisory guidance to assist a county council in developing under R.C. 121.37(C), (D), (E), and (F), as described above in "**Diversion of unruly children from the juvenile court system,**" its local service coordination process for diversion of unruly children and children who have committed acts that would be misdemeanors if committed by an adult from the juvenile court system. The Cabinet Council must include in the advisory guidance suggestions on how to effectively utilize TANF Youth Diversion Program funds, authorized in Section 63.09 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly (see **COMMENT 2**), and suggestions on how to effectively utilize other available federal, state, local, or private funds.

This provision does not authorize the Cabinet Council to adopt rules setting forth the above-described advisory guidance. (Section 4.)

The act also specifies that, not later than November 1, 2002, the Ohio Family and Children First Cabinet Council must appoint a committee to evaluate the implementation of Section 63.09, TANF Youth Diversion Programs, of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly (see **COMMENT 2**), and R.C. 121.37(C), (D), (E), and (F). The members of the committee must represent key relevant constituencies affected by the specified provisions, and the members serve without compensation. The Cabinet Council must provide any clerical support the committee requires. The committee must provide an interim report of its findings and recommendations not later than March 1, 2003, and must submit its final report, including identified best practices, not later than December 31, 2003. It must submit the reports to the Cabinet Council, President of the Senate, and Speaker of the House of Representatives. (Section 5.)

Effective date

The act specifies that its provisions described above, except for those described in "Advisory guidance and committee to evaluate implementation," take effect on January 1, 2002 (Section 3).

COMMENT

1. Under Juvenile Law, "habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or 12 or more school days in a school year. "Chronic truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for seven or more consecutive school days, ten or more school days in one school month, or 15 or more school days in a school year. Generally, an habitual truant is an unruly child, but if the child has previously been adjudicated an unruly child for being an habitual truant, the child is a delinquent child. A chronic truant is a delinquent child. Juvenile complaints for alleging a child to be either an habitual truant or a chronic truant may be filed solely against the child or jointly against the child and the parent, guardian, or custodian of the child. Juvenile Law specifies the dispositions available to a child adjudicated an unruly or a delinquent child for being an habitual or chronic truant. (R.C. 2151.011(B)(9) and (18), 2151.02, 2151.022, 2151.35, 2151.354, and 2151.355.)

2. Section 63.09, TANF Youth Diversion Programs, of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly, provides as follows:

TANF YOUTH DIVERSION PROGRAMS

Of the foregoing appropriation item 600-689, TANF Block Grant, \$19,500,000 in each fiscal year shall be allocated by the Department of Job and Family Services to the counties according to the allocation formula established in division (D) of section 5101.14 of the Revised Code. Of the funds allocated to each county, up to half may be used for contract services for unruly and misdemeanor diversionary programs.

The remaining funds not allocated for use in juvenile diversion activities may be used by the county for other contract child welfare services. In counties with separate departments of job and family services and public children services agencies, the county



department of job and family services shall serve as a pass through to the public children services agencies for these funds. Separate public children services agencies receiving such funds shall comply with all TANF requirements, including reporting requirements and timelines, as specified in state and federal laws, federal regulations, state rules, and the Title IV-A state plan, and are responsible for payment of any adverse audit finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government or other entity concerning these funds.

Of the foregoing \$19,500,000 set aside, any funds remaining unspent on June 30, 2002, shall be carried forward and added to the earmark for fiscal year 2003, and allocated to the counties according to the allocation formula established in division (D) of section 5101.14 of the Revised Code.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-01-01	p. 113
Reported, H. Criminal Justice	06-13-01	p. 661
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Reported, S. Judiciary on Criminal Justice	09-20-01	p. 897
Passed Senate (31-0)	10-02-01	p. 924
House concurred in Senate amendments (96-1)	10-10-01	pp. 887-888

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