

## CHAPTER 54.

## YOUTH SERVICE ACT.

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**54.01 Purpose of chapter.** The purposes of this chapter are to serve all the youth of this state more effectively and to reduce and prevent delinquency: first, by co-ordinated planning to assist local communities in promoting effective programs in education, health, recreation and welfare for the maximum development of all youth; to foster the development and strengthening of programs for the control of influence detrimental to youth; to encourage and assist in the establishment, operation and maintenance of community councils, youth committees and youth councils so that local services may be effectively co-ordinated; and to co-operate with departments of federal, state and local governments in the development and prosecution of programs to serve youth; and, secondly, by bringing together the activities of sentencing, training in custody or in the community under supervision, conditional release and final discharge into a single, continuous process directed toward the correction, rehabilitation and successful re-establishment in society of delinquent children and youthful offenders.

**54.02 Prospective application of chapter.** The provisions of sections 54.08 to 54.38 apply only to violations of law committed subsequently to January 1, 1948.

**54.03 Definitions.** Unless the context otherwise requires, when used in this chapter:

- (1) "Department" means the state department of public welfare.
- (2) "Division" means the division for children and youth in the department of public welfare created by section 54.04 (1).
- (3) "Child" or "youth" means any resident of this state under 21 years of age.
- (4) "Municipality" means a county, city, village or town.
- (5) "Youth committee", "youth council" or "youth agency" means a co-ordinating agency sponsored by a county, city, village or town, for the purpose of co-ordinating and supplementing the activities of public and private agencies devoted in whole or in part to the welfare and protection of youth.
- (6) "Law" includes all laws and ordinances prohibiting misconduct or conduct under criminal penalty.
- (7) "Judge" includes all judges and magistrates of courts of record; "court" includes all courts of record.

**History:** 1951 c. 245.

**54.04 Division created; co-operation of public agencies; gifts.** (1) There shall be created a division for children and youth in the department of public welfare.

(2) The department may accept gifts, grants or donations of money or of property from private sources to be administered by the department for the purposes of this chapter. All money so received shall be paid into the general fund and is appropriated therefrom as provided in section 20.17 (33).

**History:** 1951 c. 245.

**54.06 Powers of the department.** The department shall have authority and power:

(1) To collect and to collaborate with other agencies in collecting statistics and information regarding juvenile delinquency, crimes reported and discovered, arrests made, complaints, informations and indictments filed and the disposition made thereof, pleas, convictions, acquittals, probations granted or denied, commitments to and transfers and discharges from places of incarceration, and other data and information useful in determining the cause and amount of delinquency and crime in this state, or in carrying out the powers and duties of the division.

(2) To render assistance to communities in their efforts to combat delinquency and social breakdown likely to cause delinquency and crime and assist them in setting up programs for co-ordinating the total community program, including the improvement of law enforcement.

(3) To assist schools to extend their particular contribution in locating and helping children vulnerable to delinquencies and in improving their services to all youth.

(4) To assist communities in setting up recreational commissions and to assist them in extending and broadening recreational programs so as to reach all children.

(5) To assist in extending the child care programs so as to reach all homes needing such help.

(6) To assist in recruiting and training voluntary leaders for youth-serving organizations.

(7) To assist localities to secure needed specialized services such as medical, psychiatric, psychological and social work services when existing agencies are not able to supply them.

(8) To assist localities in making surveys of needs and available resources.

(9) To assist in appraising the achievement of local programs.

(10) To serve in a general consultative capacity; acting as a clearing house; developing materials; arranging conferences and participating in public addresses and radio programs.

(11) To develop and maintain an enlightened public opinion in support of a program to control delinquency.

(12) To formulate a pattern to provide this aid on a continuing basis.

(13) To administer under the director of the department of public welfare the treatment program and facilities for children and youth provided for under sections 54.08 to 54.38.

**54.07 Municipalities may sponsor activities.** (1) Any municipal corporation is hereby authorized and empowered to sponsor the establishment and operation of any committee, agency or council for the purpose of co-ordinating and supplementing the activities of public and private agencies devoted in whole or in part to the welfare of youth therein. Any municipal corporation may appropriate, raise and expend funds for the purpose of establishing and of providing an executive staff to such committees, agencies or councils; may levy taxes and appropriate money for recreation and welfare projects; and may also receive and expend moneys from the state or federal government or private individuals, corporations or associations for such purposes.

(2) No provision of this section shall be construed as vesting in any youth committee, council or agency any power, duty or function enjoined by law upon any municipal officer, board or department or as vesting in such committee, council or agency any supervisory or other authority over such officer, board or department.

**54.08 Commitment to the department; preliminary conditions.** (1) Prior to such time as the department shall have certified to the governor in writing as provided in subsection (2), a court may commit to the department as hereinafter provided, but only after the department shall have certified to the court in writing that it believes the person to be committed can be materially benefited by the procedures herein provided for, and for whose care and maintenance, in the opinion of the department, there exist proper and adequate facilities.

(2) Except as provided in subsection (1), no person may be committed to the department until it has certified to the governor in writing that it has approved or established places of preliminary detention and places for the examination and study of persons committed to it and has other facilities and personnel sufficient to the proper discharge of its duties and functions as prescribed in sections 54.08 to 54.38.

(3) Except as provided in subsection (1), before certification to the governor as provided in subsection (2), a court shall upon conviction of a person who is less than 21 years of age at the time of his apprehension, deal with him without regard to the provisions of sections 54.08 to 54.38.

**54.09 Commitment to the department by juvenile court.** When any juvenile is found to be delinquent under the provisions of chapter 48 and the juvenile court does not release such person unconditionally, place him on probation or in a family home or private institution, the court shall commit such juvenile to the department and transportation shall be arranged by the committing court.

**History:** 1951 c. 265.

See notes to 48.07, citing 39 Atty. Gen. 141 and 307.

**54.10 Determination of age by the court.** When a person has been convicted of a violation of law in criminal proceedings for which the court has the power under section 54.12 to commit him to the department, the court shall determine whether the person was less than 21 years of age at the time of his apprehension from which the criminal proceedings resulted. Proceedings in a juvenile court are not criminal proceedings as that phrase is used in sections 54.08 to 54.38.

**54.11 Department to furnish use of its facilities to court before sentence.** Upon conviction of any person who shall come within the purview of sections 54.08 to 54.38, and before sentence, the presiding judge may request the department to make a presentence examination and investigation of the person convicted. The judge of any juvenile court may likewise request the department to make an examination and investigation of any child alleged to be delinquent. The department, in such cases, shall make such examination and investigation and shall make its report to the court thereon.

**54.12 Disposition by court of person convicted.** (1) When a court finds that a person convicted of violation of law was less than 21 years of age at the time of apprehension, and the court does not discharge him unconditionally, suspend judgment or sentence, or place him on probation, the court shall render a judgment and enter an order as provided in subsection (2).

(2) If the only penalty prescribed for the violation of law of which the person is convicted is imprisonment for life, the court shall sentence him for life; or,

(a) If the penalty is imprisonment for life, or for a period for less than life, the court shall either sentence him for life or commit him to the department subject to the provisions of sections 54.08 to 54.38; or,

(b) If the maximum penalty is for less than life but is for more than 6 months, the court shall commit him to the department subject to the provisions of sections 54.08 to 54.38; or,

(c) If the maximum penalty is for less than life but is for more than 6 months, or is the payment of a fine, the court shall sentence him to the payment of a fine or commit him to the department subject to the provisions of sections 54.08 to 54.38; or,

(d) If the maximum penalty is imprisonment for not more than 6 months, or is the payment of a fine, the court shall sentence him to the payment of a fine, or shall sentence him to imprisonment for a period not longer than the time allowed by law in a place that has been approved for that purpose by the department; but the court may not commit him to the department unless it is brought to the knowledge of the court that the person has been previously convicted of a violation of law and the court is satisfied that society will be best protected by a commitment to the department; or,

(e) If the penalty is the payment of a fine, the court shall sentence him to the payment of a fine, or deal with him in any other manner prescribed by law, but shall not commit him to the department.

**54.13 The court's power of sentence.** At the time of making any commitment to the department, the judge making the commitment may, but is not required to, fix a maximum term not to exceed the limit otherwise prescribed by law for the offense of which the person is convicted, except that the maximum term shall not be for less than one year.

**54.14 Commitment to the department by the pardoning power.** If a sentence to life imprisonment is imposed upon a person less than 21 years of age, and if before he reaches the age of 21 years, the governor commutes his sentence, the department shall assume control over him as though he had been committed to the department by order of court.

**54.15 Duty of court when person fails to pay fine; violation of probation.** (1) If the court sentences a person who is less than 21 years of age at the time of his apprehension to the payment of a fine and the fine is not paid, the court may either remit the fine in whole or in part, or commit him to confinement for a length of time permitted by statutes relating to imprisonment for failure to pay fines. However, such confinement may be only in a place approved by the department for confinement of such persons as come within the purview of sections 54.08 to 54.38.

(2) If a person placed on probation for any offense within the purview of sections 54.08 to 54.38 subsequently violates the terms of his probation, any commitment resulting from such violation shall be to the department.

**54.16 Suspension of commitment.** After a court has committed a person to the department, the court has no power to suspend execution of the commitment.

**54.17 Preliminary disposition by court.** When the court commits a person to the department, the court may order him conveyed to some place of detention approved or established by the department, or may direct that he be left at liberty until otherwise ordered by the department under such conditions as in opinion of the court will insure the convicted person's submission to any orders which the department may issue.

**54.18 The effect of appeal from judgment of conviction.** (1) The right of a person who has been convicted of violation of law to appeal from the judgment of conviction shall not be affected by anything in sections 54.08 to 54.38.

(2) When a person who has been convicted and committed to the department appeals from conviction, the execution of the commitment to the department shall not be stayed by the taking of the appeal except as provided in subsection (3). The person so committed is subject to the control of the department until the conviction is set aside and proceedings against him have been dismissed.

(3) When the court by which the person was committed to the department is of the opinion that the appeal was taken in good faith and that the questions raised merit review by the appellate court, or when there has been filed with the court in which the person was convicted a certificate that a judge of an appellate court is of the opinion that questions have been raised that merit review, the judge by whom the person was convicted, or, in case of his incapacity to act, the judge by whom the certificate was filed, may, at his discretion, direct that such person be left at liberty under such conditions as in the judge's opinion will insure his co-operation in reasonable expedition of the appellate proceedings, and his submission to the control of the department at the proper time if his appeal be dismissed or not be upheld.

**54.19 Notification of commitment.** When a court commits a person to the department, it shall at once notify the department of such action in writing.

**54.20 Public officials; duty to furnish information to the department.** When a person has been committed to the department, the court and the prosecuting officials and the police authorities, and all other public officials, shall make available to the department all pertinent data in their possession in respect to the case.

**54.21 Power to make rules.** The department may make and enforce all rules appropriate to the proper accomplishment of its functions that do not conflict with nor exceed the provisions of sections 54.08 to 54.38.

**54.22 Employees.** The department may employ subject to the usual civil service regulations, such officers, employees, field representatives, counsel and such other expert and clerical assistance as is necessary to carry out the purposes of sections 54.02 to 54.38.

**54.23 Establishment of services and administrative districts.** When funds are available for the purpose, the department may:

(1) Establish and operate additional treatment and training services and other services proper for the discharge of its duties under the provisions of sections 54.08 to 54.38; and,

(2) Create administrative districts suitable for the proper execution of its duties; and,

(3) Establish and operate places for detention and examination of all persons committed to it; and,

(4) Approve or establish places for detention prior to the examination and study of all persons committed to it; and,

(5) Establish and operate places of confinement of all degrees of security, educational institutions, hospitals, or any other type of facilities and services including hostels or boarding homes, farms, forestry or soil conservation and other camps, necessary to provide the varieties of correctional and rehabilitative treatment of persons under control of the department; and,

(6) Establish and maintain agencies and facilities for the supervision and training and control of persons who have not been placed in confinement, or who have been released from confinement by the department upon conditions, and for aiding such persons in finding employment and assistance; and,

(7) Establish and maintain agencies and facilities designed to aid persons who have been discharged from the control of the department in finding employment and in leading law-abiding existences.

**54.24 Power to make use of existing institutions and agencies.** (1) For the purpose of carrying out its duties under sections 54.08 to 54.38, the department is authorized to make use of law enforcement, detention, parole, medical, psychiatric, educational, correctional, segregative and other facilities, institutions and agencies, whether public or private, within the state. The department may enter into agreements with appropriate public officials for separate care and special treatment in existing institutions of persons subject to the control of the department.

(2) Nothing herein shall be taken to give the department control over existing facilities, institutions or agencies not already under the control of the department; or to require them to serve the department inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the department power to make use of any private agency or institution without its consent; or to pay any private institution or agency for services which a public institution or agency is willing and able to perform.

(3) Public institutions and agencies are hereby required to accept and care for persons sent to them by the department in the same manner as they would be required to do had such person been committed by a judge of a court of proper jurisdiction. But no institution for the care of insane or mentally defective persons shall accept commitment by the department unless such commitment is in conformity with powers of transfer of the department.

(4) The department is hereby given the right to inspect all public institutions and agencies whose facilities it is authorized to utilize and all private institutions and agencies whose facilities it is using. Every institution and agency, whether public or private, is required to afford the department reasonable opportunity to examine or consult with persons committed to the department who are for the time being in the custody of the institution or agency.

**54.25 Power to enlist co-operation of communities.** The department may enlist the co-operation of public or private organizations and of private citizens to aid persons conditionally released, or finally discharged from control of the department in finding employment and a satisfactory place in the life of the community.

**54.26 Consequence of placement in institutions.** (1) Placement of a person by the department in any institution or agency not operated by the department or the discharge of such person by such institution or agency shall not terminate the control of the department over such person.

(2) No person placed in such institution or agency may be released by the agency or institution until after approval of the release by the department unless the institution or agency would have power under the law to release at its own discretion persons committed to it by order of court. In the latter case it may not release a person placed by the department until a reasonable time after it has notified the department of its intention to release him.

**54.27 Examination of person committed to the department.** (1) When a person has been committed to the department, it shall under rules established by it, forthwith examine and study him and investigate all pertinent circumstances of his life and the antecedents of the violation of law because of which he has been committed to the department.

(2) The department shall make periodic examinations of all persons within its control, under sections 54.08 to 54.38, for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These examinations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding one year.

(3) The department shall keep written records of all examinations and of conclusions predicated thereon and of all orders concerning the disposition or treatment of every person under its control.

(4) Failure of the department to examine a person committed to it or to re-examine him within one year shall not of itself entitle the person to a discharge from the control of the department, but shall entitle him to petition the committing court for an order of discharge, and the court shall discharge him unless it shall be made to appear that in accordance with section 54.33 there is necessity for further control.

**54.28 Duration of control; discharge.** (1) The department shall keep under continued study every person under its control, and shall retain him subject to the limitations of section 54.31, under supervision and control so long as in its judgment such control is necessary for the protection of the public.

(2) The department shall discharge any such person as soon as in its opinion there is reasonable probability that he can be given full liberty without danger to the public, but no person convicted of a felony shall, without the written approval of the committing

court, be discharged prior to 2 years after the date of his commitment, or if his sentence is for less than 2 years, prior to the date of the expiration of his sentence.

**54.29 Determination of treatment.** When a person has been committed to the department, it may:

(1) Permit him his liberty under supervision and upon such conditions as it believes conducive to law-abiding conduct; or,

(2) Order his confinement under such conditions as it believes best designed for the protection of the public; or,

(3) Order reconfinement or renewed release as often as conditions seem to indicate to be desirable; or,

(4) Revoke or modify any order, except an order of final discharge, as often as conditions seem to indicate to be desirable; or,

(5) Discharge him from control when it is satisfied that such discharge is consistent with the protection of the public.

**54.30 Type of treatment permitted.** As a means of correcting the socially harmful tendencies of a person committed to it, the department may:

(1) Require participation by him in vocational, physical, educational and correctional training and activities;

(2) Require such modes of life and conduct as seem best adapted to fit him for return to full liberty without danger to the public;

(3) Make full use of other methods of treatment including medical and psychiatric examination, care and treatment conducive to the correction of the person and to the prevention of future violation of law by him.

(4) (a) The department may establish forestry or soil conservation camps independently or in co-operation with the state conservation commission on such terms as may be agreed upon by the department and the conservation commission. The boys housed in such camps may be required to labor on the buildings and grounds of such camps, on the making of forest roads for fire prevention or fire fighting, on forestation or reforestation of public lands, or on the making of fire trails and fire breaks, or in fire suppression, or in blister rust or pest control or in soil conservation, or to perform any other work or engage in any studies or activities prescribed or permitted by the department or any officer designated by it.

(b) The department may provide, in co-operation with the conservation commission or otherwise, for the payment of wages to the boys for work they do while housed in such camps, the sums earned to be paid in reparation or to the parents or dependents of the boy or to the boy in such manner and in such proportions as the department directs.

**54.31 Termination of control.** (1) Every person committed to the department who has not already been discharged from its control as provided in sections 54.27 and 54.28, unless the department has previously thereunto made an order directing that he remain subject to its control for a longer period and has applied to the committing court for a review of said order as provided in section 54.32, shall be discharged at the expiration of the maximum term fixed by the court as provided in section 54.13, subject to the provisions of 53.11; or, in the event that the committing court has not fixed a maximum term as provided in section 54.13, shall be discharged at the expiration of the maximum term otherwise prescribed by law for the offense for which the person was convicted, subject to the provisions of section 53.11, or at the expiration of one year, whichever is the greater. For the purposes of this section, sentence shall begin at noon of the day of commitment by the court to the department.

(2) Every person committed to the department by a juvenile court under section 54.09, who has not already been discharged under section 54.28 (2), or unless application is made under section 54.32, shall be discharged when the person reaches his twenty-first birthday.

**54.32 Continuance of control; order and application for review by the committing court.** Whenever the department is of the opinion that discharge of a person from its control at the time provided in section 54.31, would be dangerous to the public for reasons set forth in section 54.33 (2), it shall make an order directing that the person remain subject to its control beyond that period and shall make application to the committing court or magistrate for a review of that order at least 90 days before the time of discharge stated. The application shall be accompanied by a written statement of the facts upon which the department bases its opinion that discharge of the person from control of the department at the time stated would be dangerous to the public.

**54.33 Action of committing court upon application for review; reasons for continuance of control by the department.** (1) If the department applies to the commit-

ting court for the review of an order as provided in section 54.32, the court shall notify the person whose liberty is involved, and if he be not sui juris, his parent or guardian if practicable, of the application, and shall afford him opportunity to appear in court with the aid of counsel and of process to compel the attendance of witnesses and the production of evidence. When he is unable to provide his own counsel the court shall appoint counsel to represent him. If such person, or any relative, guardian or friend acting in his behalf, shall demand a trial by jury, the judge shall direct that a jury be summoned to hear and determine the question of whether the discharge of such person from the control of the department would be dangerous to the public because of the person's mental or physical deficiency, disorder or abnormality.

(2) If after a full hearing, the court, or jury, finds that discharge from the control of the department of the person to whom the order applies would be dangerous to the public because of the person's mental or physical deficiency, disorder or abnormality, the court shall confirm the order. If the court, or jury, shall find that discharge of the person from continued control of the department would not be thus dangerous to the public for the causes stated, the court shall disapprove the order and shall order that the person be discharged from the control of the department at the time stated in the original commitment according to section 54.31.

**54.34 Review by court of subsequent orders of the department.** (1) When an order of the department is confirmed as provided in section 54.33, the control of the department over the person shall continue, subject to the provisions of this section; but unless the person is previously discharged in accordance with sections 54.27 and 54.28, the department shall within 2 years after the date of confirmation in the case of persons committed in accordance with section 54.09, or within 5 years after the date of such confirmation in the case of all other persons, make a new order and a new application for review thereof in accordance with the provisions of section 54.32. Such orders and applications may be repeated as often as, in the opinion of the department, may be necessary for the protection of the public.

(2) Every person shall be discharged from the control of the department at the termination of the periods stated in subsection (1) unless the department has previously acted therein as required, and shall be discharged if the court fails to confirm the order as provided in section 54.33.

**54.35 Appeal from judgment of committing court.** (1) If, under the provisions of sections 54.31, 54.33 and 54.34, the court affirms an order of the department, the person whose liberty is involved may appeal to the proper appellate court for a reversal or modification of the confirmation. The appeal shall be taken in the manner provided for by law for appeal to said court from the judgment of an inferior court, unless the supreme court shall by rule of law provide otherwise.

(2) At the hearing of an appeal the appellate court may base its judgment upon the record of the evidence; or it may, upon its own motion, or at the request of either the appellant or the department, refer the matter back for the taking of additional evidence.

(3) After hearing of an appeal, the appellate court may affirm the order of the lower court, or modify it, or reverse it and order the appellant to be discharged by the department.

(4) Pending an appeal the appellant shall remain under the control of the department.

**54.36 Provisions of extradition act to apply.** The provisions of chapter 364 entitled "Uniform Extradition Act" and the provisions of section 57.13 relating to the interstate compacts shall apply to all persons within the purview of sections 54.08 to 54.38 who escape from the control of the department with like effect as though such persons were escaping and breaking the terms of their bail, probation, or parole which might have been imposed by a court of proper jurisdiction or other legally constituted authorities.

**54.37 Conflict of provisions; effect.** Wherever the application of the other provisions conflict with the application of the provisions of sections 54.02 to 54.38, the provisions of the latter sections shall prevail.

**54.38 Name of chapter.** This chapter may be cited as the "Youth Service Act".