

CHAPTER 54

YOUTH SERVICE ACT

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54.01 Purpose of chapter. The purposes of this chapter are to bring 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 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) "Law" includes all laws and ordinances prohibiting misconduct or conduct under criminal penalty.

(2) "Judge" includes all judges of courts of record; "court" includes all courts of record.

54.06 Powers of the department. The department shall administer the treatment program and facilities for youthful offenders provided for under ss. 54.08 to 54.38.

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.

54.10 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 s. 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.

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 ss. 54.08 to 54.38, and before sentence, the presiding judge may request the de-

partment to make a presentence examination and investigation of the person convicted. 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 per-

son 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 Employes. The department may employ subject to the usual civil service regulations, such officers, employes, 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 cooperation with the department of natural resources on such terms as may be agreed upon by the department and the department of natural resources. 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 cooperation with the department of natural resources 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.

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 s. 54.31, would be dangerous to the public for reasons set forth in s. 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 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 committing 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 s. 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 ss. 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 s. 48.34, 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 s. 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. Chapter 976 entitled "Uniform Extradition Act" and s. 57.13 relating to the interstate compacts shall apply to all persons within the purview of ss. 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".