

CHAPTER 108
FORMERLY
SENATE BILL NO. 255

AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLES 10, 11, 13, 16, 29 AND 31 OF THE DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend Title 29 of the Delaware Code, by adding a new Chapter, designated as Chapter 90, to read as follows:

"Chapter 90. DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

§9001. Intent and Purpose

The General Assembly hereby declares that the purpose of this chapter and the policy of the State of Delaware is to achieve the consolidation of Child Protective Services and the Youth Diagnostic Center within the jurisdiction of a single agency as an initial step towards the development of a comprehensive and unified service delivery system to abused, neglected, dependent, delinquent and mentally ill or emotionally disturbed children and youth within a continuum of care, which shall include the involvement of their families, within the least restrictive environment possible; to emphasize preventive services to children, youth and their families, in order to avoid the costs to the State of individual and family instability.

§9002. Establishment of a Department of Services for Children, Youth and Their Families

There is hereby established the Department of Services for Children, Youth and Their Families hereinafter referred to as the "Department..

§9003. Powers, Duties and Functions of the Department

The Department of Services for Children, Youth and Their Families shall have the following powers, duties and functions:

1. To provide services to children, youth and their families to prevent children from becoming abused, neglected, and dependent as defined under existing law.
2. To provide for a variety of facilities and services to children, youth and their families which shall Include, but not be limited to the following:
 - a. Protective Services;

b. Preplacement, preventive services and reunification services;

c. Home-based services;

d. Residential facilities;

e. Adoption and permanent placement services;

f. Evaluation, diagnostic and treatment services;

g. Foster care Services;

h. Follow-up services.

3. To prepare and maintain a written case plan for each child under its supervision or custody, which shall include but not be limited to a description of the child's problems, the care and treatment of the child, and any other services to be provided to the child and his or her family; each case plan must be designed to achieve any placement of the child outside of his or her home in the least restrictive setting available and in close proximity to the child's home, consistent with the best interests and special needs of the child.

4. To conduct a written review at least every six months of the case plan for each child under its supervision or custody for the purpose of determining whether the plan is appropriate.

5. To license, register, and monitor all residential and non-residential child care facilities, including but not limited to institutions, child placement and adoption agencies, day care centers, family day care homes, group homes, group day care homes and foster homes unless otherwise exempted by law.

6. To monitor and evaluate all aspects of its service delivery system and document the need for or degree of compliance with standards, policies and procedures adopted by the Department.

7. To administer the Interstate Compact on Child Placement.

8. To establish, Implement and follow procedures and standards compatible with due process of law with respect to the removal of a child from his home, a change in the placement of a child who is under the supervision or custody of the Department, and any other actions by the Department that may affect the legal rights of a child and his or her family.

9. To provide or contract with public and private agencies in this State and other states for facilities and services necessary to achieve the purposes of this Act.

10. To provide or contract for services designed to maintain or provide permanent homes for children who are in out-of-home care, through the provision of adoption services or, whenever feasible, reunification services for children and their families.

11. To develop and implement rules, regulations, standards and policies governing the internal operation and administration of the Department and provision of services.

12. To exercise the authority and power to administer protective services to children presently delegated by law to the Department of Health and Social Services, Division of Child Protective Services.

13. To exercise all other powers necessary and proper for the discharge of its duties.

§9004. Appointment of Secretary; Division Directors; Acting Secretary

(a) The Administrator and head of the Department shall be the Secretary of the Department of Services for Children, Youth and Their Families, who shall be a person qualified by training and experience to perform the duties of this office. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor, and receive a salary to be determined by the Governor.

(11) In the event the position of Secretary is vacant, the Governor, by appointment, shall have the power to fill the positions of Division Director and Director of the Youth Diagnostic Center as are vacant. Directors so appointed shall serve at the pleasure of the Governor and upon the position of Secretary being filled such directors may be removed from office by the Secretary with the written approval of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of a successor, the Governor may appoint a person to serve as Acting Secretary. The Secretary may, during an absence from the State, appoint the Director of the Youth Diagnostic Center or the director of any division of the Department to serve as Acting Secretary during such absence. In either case the Acting Secretary shall have all the powers and perform all the duties and functions of the Secretary during an absence or incapacity or until a successor is duly qualified and appointed.

§9005. Powers, Duties and Functions of the Secretary The Secretary shall:

1. Supervise, direct and account for the administration and operation of the Department, its divisions, subdivisions, offices, functions and employees;

2. Appoint and determine the salary, with the written approval of the Governor, of the following directors who may be removed from office by the Secretary with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department that may be assigned by the Secretary,

a. A Director of the Division of Child Protective Services who shall be known as the Director of Child Protective Services;

b. A Director of the Youth Diagnostic Center who shall be known as the Director of the Youth Diagnostic Center.

c. A Director of the Division of Administrative and Support Services who shall be known as the Director of Administrative and Support Services.

3. Make and enter into any and all contracts, agreements or stipulations, and retain, employ and contract for the services of private and public consultants, research and technical personnel and to procure by contract consulting, research, technical and other services and facilities from public and private agencies in this State and other states, whenever the same shall be deemed by the Secretary to be necessary in the performance of the functions of the Department. All necessary legal services shall be provided pursuant to Chapter 25 of this Title;

4. Delegate any of the Secretary's powers, duties and functions to a division, except the power to remove employees of the Department or to determine their compensation.

5. Establish, consolidate or abolish such divisions, subdivisions and offices within the Department or transfer or combine the powers, duties and functions of the divisions, subdivisions and offices within the Department as the Secretary, with the written approval of the Governor, may deem as necessary, providing that all powers, duties and functions required and assigned by law to the Department shall be provided for and maintained;

6. Establish and promulgate such rules and regulations governing the services and programs of the Department and such other rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Secretary and which are not inconsistent with Federal or State law;

7. Maintain such state-operated facilities throughout the State as may be required for the effective and efficient operation of the Department;

1. Adopt an official seal or seals for the Department;

1. Prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly as directed under this Act;

2. Coordinate the activities of the Department with those of other state departments and private agencies concerned with providing services for children and their families;

3. Make such reports in such form and containing such information as the federal government may require in order to obtain federal aid and comply with such provisions as the federal government may find necessary to assure the correctness and verification of such reports;

4. Have any and all other powers and duties as are necessary to administer the powers, duties and functions of the Department and implement the purposes of this Chapter.

§9008. Creation of Major Organizational Units

(a) The following major organizational units are hereby created within the Department of Services for Children, Youth and Their Families:

1. The Division of Child Protective Services which shall be responsible for the provision of child protective, placement, treatment, prevention, adoption, and related services.

2. The Youth Diagnostic Center which shall be responsible for provision of diagnostic and treatment planning services for multiple problem youth.

3. The Division of Administrative and Support Services which shall be responsible for administering and coordinating fiscal affairs, record keeping, personnel, accounting and purchasing, and other general services for the Department as the Secretary may deem necessary for the proper, efficient and economical operation of the Department.

§9007. Exemptions from Merit System

The following positions set forth in this Chapter shall be exempt from Chapter 59 of this Title:

1. Secretary of the Department of Services for Children, Youth and Their Families.
2. Director of Child Protective Services.
3. Director of Youth Diagnostic Center.
4. Director of Administrative and Support Services.
5. Deputy Directors and private secretaries as provided in Chapter 59 of this Title.

§9008. Council on Services for Children, Youth and Their Families

(a) There is hereby created a Council on Services for Children, Youth and Their Families which shall serve in an advisory capacity to the Secretary of the Department.

(b) The duties of the Council shall include, but not be limited to the followings

1. Study, research, plan and advise the Secretary on matters it deems appropriate to enable the Department to function in the best possible manner.
2. Review and advise the Secretary regarding the annual proposed budget for the Department.
3. Recommend to the Secretary legislation to improve services for children, youth and their families.

(c) The Council shall be composed of nine members who shall be appointed by the Governor. The terms of the members shall be for one year.

(d) At least four, but no more than five, members of the Council shall be affiliated with one of the major political parties and at least three, but no more than four, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other major political party. Any person who declines to announce his political affiliation shall also be eligible for appointment as a member of the Council.

(e) The Council shall be composed of five public members and four professional members. Professional members are defined as employees of public and private youth service agencies or organizations or

related governmental agencies. Public members are defined as persons not employed in a professional capacity with youth service agencies or organizations. Women and minorities shall be appointed to the Council. Appointments to the Council shall also include at least one child and one parent of a child served by the Department at the time of appointment.

(f) A Chairperson of the Council shall be chosen by the members of the Council from among the Council members and shall serve in that capacity for a term of one year.

(g) The Chairperson of the Council shall be responsible for submitting the Council's findings and recommendations to the Secretary of the Department. Any written inquiries or recommendations submitted by the Council shall be responded to in written form by the Secretary within thirty days of receipt of the inquiries or recommendations. The Secretary shall either adopt or reject recommendations made by the Council and provide the Council with a written explanation for such decision.

(g) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council. The Secretary of the Department shall provide the Council with staff support.

(i) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be tilted for the remainder of the term.

§9009. Assumption of Powers

The Department shall have the power to perform and shall be responsible for the performance of all powers, duties, and functions relating to the provision of child protective services heretofore vested by law in the Department of Health and Social Services, Division of Child Protective Services. These powers, duties and functions shall include, but are not limited to, the powers and duties of the Division of Child Protective Services, Department of Health and Social Services, prescribed in Title 16, Chapter 9; Title 31, Chapter 3, Subchapters 1,11, ill, IV, V and Chapter 27; and Title 13, Chapters 9 and 11.

§9010. Appeals

Any and all rights of appeal now existing by law with respect to any act or acts constituting the exercise of any function or functions transferred to the Department or to any division, subdivision or office thereof shall continue to exist with respect to such act or acts as hereafter performed by the Department or by the division, subdivision or office to which such function is transferred and each such appeal shall be perfected in the manner heretofore provided by law.

§9011. Transfers and Continuity

(a) All property, including all books, records, papers, maps, charts, plans, equipment, and other materials owned by or in the possession of any agency of the State and used in connection with a function transferred by this Chapter to the Department shall be delivered into the custody of the Department. All investigations, petitions, hearings, and legal proceedings pending before, or instituted

by or against, any agency from which functions are transferred by this Chapter and which are not concluded prior to the effective date of this Chapter shall continue unabated and remain in full force and effect, notwithstanding the passage of this Chapter and, where necessary, may be completed before, by or in the name of the Department. All orders, rules and regulations made by any agency from which functions are transferred by this Chapter and which govern such functions, and which are in effect upon the effective date of this Chapter, shall remain in full force and effect until revoked or modified in accordance with law by the Department. All contracts and obligations of any agency made or undertaken in the performance of a function transferred by this Chapter to the Department and being in full force shall, notwithstanding this Chapter, remain in full force and effect and be performed by the Department.

(b) All resources and equipment which are used for children now under the administrative control of the Department of Health and Social Services' Division of Child Protective Services are hereby transferred to the Department of Services for Children, Youth and Their Families.

(c) All children who, on the effective date of this Chapter, are under the supervision, care or protection or in the custody of the Department of Health and Social Services, Division of Child Protective Services, shall be deemed to be under the supervision, care or protection, or in the custody of the Department of Services for Children, Youth and Their Families as of the effective date of this Chapter.

(d) Employees of any commission, bureau, department, division or agency whose functions are consistent with this Chapter and who have been transferred to the Department of Services for Children, Youth and Their Families by this Chapter, shall continue and be deemed to be the employees of the Department on the effective date of this Chapter and, where applicable, with all the benefits accrued as merit employees as of the effective date of this Chapter.

(e) All definitions and references to any commission, board, department, council, division, or agency which appear in any other act or law shall, to the extent that they are consistent with this Chapter and in connection with a function transferred by this Chapter to the Department or to any subdivision thereof or to any council or office created by this Chapter, be construed as referring and relating to the Department of Services for Children, Youth and Their Families as created and established by this Chapter.

(f) All definitions and references to any director, commissioner, executive secretary, commission, board or council member or other similar person which appear in any other act or law shall, to the extent that same are consistent with this Chapter, and in connection with a function transferred to the Department, be construed as referring or relating to such person or persons and their powers, duties and functions as established and created by this Chapter.

§9012. Appropriated Funds

Notwithstanding any other provision of State law, any sums appropriated to any division, commission, department, council, agency or person affected by this Act and any funds appropriated to the Department of Health and Social Services, Division of Child Protective Services, and the Interagency Youth Diagnostic Center, which on July 1, 1983 are unencumbered, encumbered or unexpended and any

authorized positions affected by this Act shall be and are hereby appropriated and transferred to the Department of Services for Children, Youth and Their Families. The Budget Director and the Controller General are hereby authorized and directed to make such transfers of funds and positions as may be required to carry out the provisions of this Act.

§9013. Annual Report

The Secretary of the Department shall make an annual report to the Governor and the General Assembly of the Department's operations and render such other reports as the Governor or General Assembly may request by law.

§9014. Misnomer of Department in Donation

Any misnomer shall not defeat or annul any gift, grant, devise or bequest to the Department if it sufficiently appears by the will, conveyance or other writing that the party making the same intended to pass and convey to the Department or to any commission, board, department, authority, council or agency, to which, by this Chapter, the powers, duties and functions have been transferred to the Department, the estate or interest therein expressed or described.

§9015. Budgeting and Financing

The Secretary, in cooperation with the Department directors shall prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

Special funds may be used in accordance with approved programs, grants and appropriations.

§9016. Confidential Information

In the course of performing its functions as enumerated in this Chapter, the Department shall be entitled to inspect and copy all records regarding any children in the care, supervision, protection or custody of the Department and their parents, guardians, caretakers, or custodians which are maintained and controlled by the Department of Health and Social Services.

The Department shall have the discretion to release information from its records to public and private agencies if it determines that such release will serve the best interests of children in its care.

In releasing the aforementioned records pursuant to this section, the Department and the Department of Health and Social Services and their employees shall have immunity from any civil or criminal liability.

This section shall not be construed to override any confidentiality provisions provided under State or federal law which govern any records in the control of the Department of Health and Social Services, including but not limited to, the following statutes: §5161(A)(7), Chapter 51, Title 16, Delaware Code; §1121 (6), Chapter 11, Title 16, Delaware Code; §157, Chapter 1, Title 16, Delaware Code; §702, Chapter 7, Title 16, Delaware Code; and §2802, Chapter 28, Title 31, Delaware Code.

§9017. Supremacy

All other laws or parts of laws now in effect inconsistent with this Chapter are hereby repealed, superseded, modified, or amended so far as necessary to conform to and give full force and effect to this Chapter."

Section 2. Amend Chapter 79, Title 29, Delaware Code by striking §§7911(3), 7912(b) and 7914 in their entireties.

Section 3. Amend §7923, Chapter 79, Title 29, Delaware Code by striking the words "the Commission on Children and Youth" as they appear therein.

Section 4. Amend §5301(2), 302(4), 303, 304, 305, 307, 308, 342, 343, 351, 352, and 353, Chapter 3, Title 31, Delaware Code; 553602 and 3806, Chapter 38, Title 31, Delaware Code; §5901(8) and 921(6)(b), Chapter 9, Title 10, Delaware Code; §1111, Chapter 11, Title 13, Delaware Code; and §§904 and 905, Chapter 9, Title 16, Delaware Code by striking the words "Division of Social Services" and inserting in lieu thereof the following:

"Division of Child Protective Services".

Section 5. Amend §355, Chapter 3, Title 31, Delaware Code by striking the word "Department" and inserting in lieu thereof the following:

"Department of Services for Children, Youth and Their Families".

Section 6. Amend §§383 and 384, Chapter 3, Title 31, Delaware Code; §3821, Chapter 38, Title 31, Delaware Code; §5922(11), 936(2), and 937(b)(3), 937(b)(4), 937(b)(5), 937(b)(13), Chapter 9, Title 10, Delaware Code; 55901(2) and (3), 904, 905, 909, 910, 912, 914, 915, 917 and 925, Chapter 9, Title 13, Delaware Code; and 551101(2), 1104(7), 1105(a)(8), 2205(c), 1107(a) and 1108(a), Chapter 11, Title 13, Delaware Code by striking the words "Department of Health and Social Services" and inserting in lieu thereof the following:

"Departmental Services for Children, Youth and Their Families".

Section 7. Amend 5933(1), Chapter 9, Title 10, Delaware Code by striking the words "Division of Social Services, Department of Health and Social Services" and inserting in lieu thereof the following:

"Division of Child Protective Services, Department of Services for Children, Youth and Their Families".

Section 8. Amend §937(b)(7), Chapter 9, Title 10, Delaware Code by striking in its entirety and inserting in lieu thereof the following:

"Grant the care or custody of a child to any division of the Department of Services for Children, Youth and Their Families or Department of Health and Social Services provided by the State for the care of children;"

Section 9. Amend §§111(a), 111(b), 112 and 113, Chapter 1, Title 13, Delaware Code by striking the numbers "3" and "5" and inserting in lieu thereof the following:

Section 10. Amend §§913, 924 and 926, Chapter 9, Title 13, Delaware Code and §§1107(d) and 1111, Chapter 11, Title 13, Delaware Code by striking the words "Department of Health and Social Services, Division of Social Services: and Inserting in lieu thereof the following:

"Department of Services for Children, Youth and Their Families, Division of Child Protective Services".

Section 11. Amend §994, Chapter 9, Title 16, Delaware Code by striking the words "Division of Social Services of the Department of Health and Social Services" and inserting In lieu thereof the following:

"Division of Child Protective Services of the Department of Services for Children, Youth and Their Families".

Section 12. Establishment of Steering Committee.

A. A Steering Committee shall be established to assist in the planning and implementation of the Department of Services for Children, Youth and Their Families.

B. The Committee shall consist of the Budget Director, who shall serve as Chairperson, the Commissioner of Correction, the Secretary of Health and Social Services, the Superintendent of Public Instruction, the Chief Judge of Family Court, and the Secretary of Services for Children, Youth and Their Families.

C. The Steering Committee shall have the following duties:

1. To assist in the planning and Implementation of the Department of Services for Children, Youth and Their Families;

2. To prepare a report which shall be submitted to the State Auditor of Accounts which clearly identifies the source and amount of funds to be transferred to the Department of Services for Children, Youth and Their Families from the Department of Health and Social Services, the Department of Correction and the Family Court on or before July 1, 1984;

3. To determine an efficient method to administer the provision of out-patient mental health and drug and alcohol services for children, youth and their families.

4. To report to the Governor and the General Assembly on or before April 1, 1985, its findings and recommendations regarding the appropriate scope of the Department, which shall include, but not be limited to the following:

a. Whether the Department shall encompass other State child and youth related services.

b. Whether the authority for the care and custody of serious and/or habitual Juvenile offenders who are found not to be amenable to the rehabilitative processes of the Division of Youth Rehabilitation

Services, Department of Services for Children, Youth and Their Families should be transferred from the Department.

Section 13. Audit; Appropriated Funds.

A. As of the effective date of this Act, the State Auditor of Accounts shall be responsible for conducting an audit of the financial resources to be transferred to the Department of Services for Children, Youth and Their Families from the Department of Health and Social Services, Department of Correction and Family Court on or before July 1, 1984. The report of the Steering Committee as described by Section 12 of this Act shall be considered by the Auditor of Accounts in making his preliminary report. The preliminary audit findings shall be submitted to the Steering Committee and the Secretary of the Department. The Auditor of Accounts may revise his preliminary report upon consideration of written comments by the Steering Committee. The final report shall include but not be limited to the followings

1. Identification of the source and amount of funds within the Department of Health and Social Services, Department of Correction, and Family Court that are used for the provision of child mental health, youth correctional and youth probation services and the related administrative and support services during fiscal year 1984.

2. Identification of the source and amount of funds within the Department of Health and Social Services, Department of Correction and Family Court that will be transferred to the Department of Services for Children and Their Families on or before July 1, 1984.

3. The identification of any additional funds within the Department of Health and Social Services used for the provision of child protective services and related administrative and support services that were not transferred to the new Department on July 1, 1983 as required under Section I of this Act. Any such funds identified in the audit shall be transferred by the Budget Director and Controller General, to the new Department on or before September 1, 1983.

Section 14. Amend Chapter 00, Title 29, Delaware Code by striking in its entirety and inserting in lieu thereof a new Chapter 90 to read as follows:

"CHAPTER 90. DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

§9001. Intent and Purpose

A. The General Assembly finds and declares that parents have the primary responsibility for meeting the needs of their children and the State has an obligation to help them discharge this responsibility or to assume this responsibility when parents are unable to do so; that the State has a basic obligation to promote family stability and preserve the family as a unit whenever feasible and protect and safeguard the well-being of children through the provision of a comprehensive program of social services and facilities for children and their families who require care, guidance, control, protection, treatment, rehabilitation or confinement.

B. The General Assembly hereby declares that the purpose of this Act and the policy of the State of Delaware is to achieve the consolidation of services to children, youth and their families within the Jurisdiction of a single agency in order to avoid fragmentation and duplication of services and to increase accountability for the delivery and administration of these services; to plan, develop, and administer a comprehensive and unified service delivery system to abused, neglected, dependent, delinquent and mentally ill or emotionally disturbed children and youth within a continuum of care, which shall include the involvement of their family, within the least restrictive environment possible; to emphasize preventive services to children, youth and their families, in order to avoid the costs to the State of individual and family instability.

§9002. Establishment of a Department of Services for Children, Youth and Their Families

There is hereby re-established the Department of Services for Children, Youth and Their Families hereinafter referred to as the "Department".

§9003. Powers, Duties and Functions of the Department

A. The Department of Services for Children, Youth and Their Families shall have the following powers, duties and functions:

1. To provide to children, youth and their families a comprehensive and effective statewide program of services for children and youth who have been committed to the Department or placed in the care of the Department by the Court, referred to the Department by parents, agencies or other individuals, or who have otherwise voluntarily applied to the Department for services.
2. To provide services to children, youth and their families to prevent children and youth from becoming abused, neglected, dependent and delinquent, as defined under existing law, and to prevent mental illness and emotional disorders among children and youth.
3. To provide for a variety of facilities and services to children, youth and their families which shall include, but not be limited to the following:
 - a. Protective services;
 - b. Preplacement, preventive services and reunification services;
 - c. Home-based services;
 - d. Mental health in-patient and out-patient services;
 - e. Drug and alcohol in-patient and out-patient services;
 - f. Residential and institutional facilities;
 - g. Probation, after-care and follow-up services;
 - h. Adoption and permanent placement services;

I. Evaluation, diagnostic and treatment services;

J. Foster care services.

4. To prepare and maintain a written case plan for each child under its supervision or custody, which shall include but not be limited to a description of the child's problems, the care and treatment of the child, and any other services to be provided to the child and his or her family; each case plan must be designed to achieve any placement of the child outside of his or her home in the least restrictive setting available and in close proximity to the child's home, consistent with the best interests and special needs of the child.

5. To conduct a written review at least every six months of the case plan for each child under its supervision or custody for the purpose of determining whether the plan is appropriate.

6. To develop a central case management system which will provide coordinated information on client progress, including the client's entry and exit from the system, assessment of the client's needs, development and review of the case plan, and evaluation and monitoring of the client's progress.

7. To license, register, and monitor all residential and nonresidential child care facilities, including but not limited to institutions, child placement and adoption agencies, day care centers, family day care homes, group day care homes, group homes, and foster homes unless otherwise exempted by law.

8. To supervise the provision of educational and vocational training in all facilities operated by the Department.

9. To monitor and evaluate all aspects of its service delivery system and document the need for or degree of compliance with standards, policies and procedure adopted by the Department.

10. To administer the Interstate Compact on Juveniles and the Interstate Compact on Child Placement.

11. To establish, implement and follow procedures and standards compatible with due process of law with respect to the removal of a child from his home, a change in the placement of a child who is under the supervision or custody of the Department, and any other actions by the Department that may affect the legal rights of a child and his or her family.

12. To provide or contract with public and private agencies in this State and other States for facilities and services necessary to achieve the purposes of this Act.

13. To provide or contract for services designed to maintain or provide permanent homes for children who are in out-of-home care, through the provision of adoption services or, whenever feasible, reunification services for children and their families.

14. To develop and implement rules, regulations, standards and policies governing the internal operation and administration of the Department and provision of services.

15. To exercise the authority and power to administer protective, mental health, correctional and probation services to children presently delegated by law to the Department of Health and Social Services, Division of Mental Health; Department of Correction, Bureau of Juvenile Correction; Family Court; and previously delegated by law to the Department of Health and Social Services, Division of Child Protective Services.

16. To exercise all other powers necessary and proper for the discharge of its duties. §9004.

Appointment of Secretary; Division Directors; Acting Secretary

A. The administrator and head of the Department shall be the Secretary of the Department of Services for Children, Youth and Their Families, who shall be a person qualified by training and experience to perform the duties of this office. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor and receive a salary to be determined by the Governor.

B. In the event the position of Secretary is vacant the Governor, by appointment, shall have the power to fill the positions of division director and Director of the Youth Diagnostic Center as are vacant. Directors so appointed shall serve at the pleasure of the Governor and upon the position of Secretary being filled such directors may be removed from office by the Secretary with the written approval of the Governor.

C. In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of a successor, the Governor may appoint a person to serve as Acting Secretary. The Secretary may, during an absence from the State, appoint the Director of the Youth Diagnostic Center or the director of any division of the Department to serve as Acting Secretary during such absence. In either case the Acting Secretary shall have all the powers and perform all the duties and functions of the Secretary during an absence or incapacity or until a successor is duly qualified and appointed.

§9005. Powers, duties and functions of the Secretary The Secretary shall:

- 1) Supervise, direct and account for the administration and operation of the Department, its divisions, subdivisions, offices, functions and employees;
- 2) Appoint and determine the salary, with the written approval of the Governor, of the following directors who may be removed from office by the Secretary with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department that may be assigned by the Secretary:
 - a. A Director of the Division of Child Protective Services who shall be known as the Director of Child Protective Services;
 - b. A Director of the Division of Child Mental Health Services who shall be known as the Director of Child Mental Health Services;

c. A Director of the Division of Youth Rehabilitation Services who shall be known as the Director of Youth Rehabilitation Services;

d. A Director of the Division of Administrative and Support Services who shall be known as the Director of Administrative and Support Services.

e. A Director of the Youth Diagnostic Center who shall be known as the Director of the Youth Diagnostic Center;

3) Appoint the following administrators and any additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law:

a. An Administrator of the Office of Case Management who shall be known as the Administrator of Case Management;

b. An Administrator of the Office of Primary Prevention who shall be known as the Administrator of Primary Prevention;

c. An Administrator of the Office of Planning, Management and Productivity who shall be known as the Administrator of the Office of Planning, Management and Productivity.

4) Establish, consolidate or abolish such divisions, subdivisions and offices within the Department or transfer or combine the powers, duties and functions of the divisions, subdivisions and offices within the Department as the Secretary, with the written approval of the Governor, may deem necessary, providing that all powers, duties and functions required and assigned by law to the Department shall be provided for and maintained;

1) Make and enter into any and all contracts, agreements or stipulations, and retain, employ and contract for the services of private and public consultants, research and technical personnel and to procure by contract consulting, research, technical and other services and facilities from public and private agencies in this State and other states, whenever the same shall be deemed by the Secretary to be necessary in the performance of the functions of the Department. All necessary legal services shall be provided pursuant to Chapter 25 of this title;

1) Delegate any of the Secretary's powers, duties or functions to a division, except the power to remove employees of the Department or to determine their compensation;

1) Establish and promulgate such rules and regulations governing the services and programs of the Department and such other rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Secretary and which are not inconsistent with the Federal and State law;

1) Maintain such facilities throughout the State as may be required for the effective and efficient operation of the Department;

1) Adopt an official seal or seals for the Department;

- 1) Prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly as directed under this Act;
- li) Coordinate the activities of the Department with those of other State departments and private agencies concerned with providing services for children and their families;
- 12) Make such reports in such form and containing such information as the federal government may require in order to obtain federal aid and comply with such provisions as the federal government may find necessary to assure the correctness and verification of such reports;
- 13) Have any and all other powers and duties as are necessary to administer the powers, duties and functions of the Department and implement the purposes of this Chapter.

§9006. Creation of Major Organizational Units

A. The following Divisions and other major organizational units are hereby created within the Department of Services for Children, Youth and Their Families:

1. The Division of Child Protective Services which shall be responsible for the provision of child protective, placement, treatment, prevention, adoption, and related services.
2. The Division of Child Mental Health Services which shall be responsible for the provision of prevention, out-patient and residential mental health, and drug and alcohol treatment services for children, and youth.
3. The Division of Youth Rehabilitation Services which shall be responsible for the provision of detention, institutional care, probation, after care and prevention services for children and youth.
4. The Youth Diagnostic Center which shall be responsible for provision of diagnostic and treatment planning services for multiple problem children and youth.
5. The Division of Administrative and Support Services which shall be responsible for administering and coordinating fiscal affairs, record keeping, personnel, accounting and purchasing, and other general services for the Department as the Secretary may deem necessary for the proper, efficient and economical operation of the Department.
6. The Office of Case Management which shall be responsible for monitoring case management among the divisions within the Department. This Office shall have the authority to assign case management responsibility to one of the service divisions whenever necessary.
7. The Office of Primary Prevention which shall have the responsibility for providing training, public education and consultation services aimed at preventing child abuse, dependency, neglect, juvenile delinquency, mental health disorders, and drug and alcohol abuse among children and youth.
8. The Office of Planning, Management and Productivity which shall be responsible for coordinating planning activities for the Department which shall include, but not be limited to, the development of

standards, regulations and policy; on-going program monitoring and evaluation of services provided by the Department directly and through contractual arrangements.

§9007. Exemptions from Merit System

The following positions set forth in this Chapter shall be exempt from Chapter 59 of this title:

1. Secretary of the Department of Services for Children, Youth and Their Families.
2. Director of Child Protective Services.
3. Director of Child Mental Health Services.
4. Director of Youth Rehabilitation Services.
5. Director of Youth Diagnostic Center.
6. Director of Administrative and Support Services.

7. Deputy Directors and private secretaries as provided in Chapter 59 of this Title. §9008. Creation of Divisional Advisory Councils

A. The following Divisional Advisory Councils are hereby created:

1. The Advisory Council on Child Protective Services which shall serve in an advisory capacity to the Director of the Division of Child Protective Services.
2. The Advisory Council on Child Mental Health Services which shall serve in an advisory capacity to the Director of the Division of Child Mental Health Services.
3. The Advisory Council on Youth Rehabilitation Services which shall serve in an advisory capacity to the Director of the Division of Youth Rehabilitation Services.

B. The duties of each Divisional Advisory Council shall include, but not be limited to the following:

1. Study, research, plan and advise Division Directors on matters it deems appropriate to enable the Divisions to function in the best possible manner.
2. Review and advise Division Directors regarding the annual proposed budget for the Division.
3. Recommend to Division Directors legislation to improve services for children and their families.

C. Each Divisional Advisory Council shall be composed of 9 members who shall be appointed by the Governor. The terms of new members shall be staggered. The first three appointees shall serve for a term of one year. The next three appointees shall serve for a term of two years and the next three appointees shall serve for a term of three years. Thereafter, all new appointees shall serve for a term of three years. No person shall serve for more than two consecutive terms. Persons serving two consecutive terms are eligible for re-appointment after a one year absence.

D. At least 4, but no more than 5, members of each Divisional Advisory Council shall be affiliated with one of the major political parties and at least 3, but no more than 4, of the newly appointed members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other major political party. Any person who declines to announce his political affiliation shall, also be eligible for appointment as a member of the Council.

E. Each Divisional Advisory Council shall be composed of 5 public members and 4 professional members. Professional members are defined as employees of public and private youth service agencies or organizations or related governmental agencies. Public members are defined as persons not employed in a professional capacity with youth service agencies or organizations. Appointments to each Council shall also include at least one child and one parent of a child served by the Department at the time of appointment.

F. A Chairperson of each Council shall be chosen by the members of the respective Councils from among its members and shall serve in that capacity for a term of one year and shall be eligible for re-election.

G. Each Chairperson of the Divisional Advisory Councils shall be responsible for submitting the Council's findings and recommendations to the respective Division Directors. Any written inquiries or recommendations submitted by the Divisional Advisory Councils shall be responded to in written form by the respective Division Directors within 30 days of receipt of the inquiries or recommendations. Division Directors shall either adopt or reject recommendations made by Divisional Advisory Councils and provide the Councils with a written explanation for such decision.

H. Members of each Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council. The Secretary of the Department shall provide the Divisional Advisory Councils with staff support.

A. Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

§9009. Creation of Executive Advisory Council on Children, Youth and Their Families

A. There is established the Executive Advisory Council on Children, Youth and Their Families.

B. The Executive Advisory Council on Children, Youth and Their Families shall serve in an advisory capacity to the Secretary of the Department of Services for Children, Youth and Their Families. The duties of the Executive Advisory Council on Children, Youth and Their Families shall include, but not be limited to, the following:

1. Coordinate the activities of the Divisional Advisory Councils.
2. Recommend to the Secretary legislation to improve services for children, youth and their families.
3. Annually review and advise the Secretary regarding the proposed budget of the Department.

4. Investigate and plan for the development of family-based services and further service integration within the Department. Recommendations regarding family-based services and service integration shall be submitted to the Secretary within nine months following the establishment of the Executive Advisory Council.

C. The Executive Advisory Council shall be composed of 11 members as follows:

1. The three Divisional Advisory Council Chairpersons;
2. Two Adolescent Care Specialists appointed by the Governor.
3. Two members from each of the three Divisional Advisory Councils to be chosen by the respective Chairperson of each Divisional Advisory Council.

D. The Chairperson of the Executive Advisory Council shall be appointed by the Governor from among the three Divisional Advisory Council Chairpersons. The Chairperson of the Executive Advisory Council shall serve for a term of one year and shall be eligible for one reappointment.

E. The Secretary of the Department shall respond in written form within 30 days of receipt of any written inquiries or recommendations submitted to the Secretary by the Executive Advisory Council. The Secretary shall either adopt or reject recommendations made by the Executive Advisory Council and provide the Council with a written explanation for such decision.

F. Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council. The Secretary of the Department shall provide the Executive Advisory Council with staff support.

G. Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

§9010. Assumption of Powers

A. As of the effective date of this Chapter, the Department shall have the power to perform and shall be responsible for the performance of all powers, duties, and functions relating to the provision of child protective services, child mental health services, youth correctional services and youth probation services heretofore vested by law in the Department of Health and Social Services, Division of Mental Health and Division of Child Protective Services, the Department of Correction, Bureau of Juvenile Correction and Family Court. These powers, duties and functions shall include, but are not limited to the following:

1. The powers and duties of the Division of Child Protective Services, Department of Health and Social Services, prescribed in Title 16, Chapter 9, Title 31, Chapter 3, Subchapters I, II, III, IV, V and Chapter 27; and Title 13, Chapters 9 and 11;
2. The powers and duties of the Bureau of Juvenile Correction, Department of Correction, prescribed in Title 31, Chapters 51, 52 and 53; and

3. The powers and duties of the Division of Mental Health, Department of Health and Social Services that pertain to the provision of mental health services to children and youth as, prescribed in Title 18, Chapter 53.

4. The powers and duties of the Department of Services for Children, Youth and Their Families, prescribed in Title 29, Chapter 90.

§9011. Appeals

Any and all rights of appeal now existing by law with respect to any act or acts constituting the exercise of any function or functions transferred to the Department or to any division, subdivision or office thereof shall continue to exist with respect to such act or acts as hereafter performed by the Department or by the division, subdivision or office to which such functions is transferred and each such appeal shall be perfected in the manner heretofore provided by law.

§9012. Transfers and Continuity

A. All property, including all books, records, papers, maps, charts, plans, equipment, and other materials owned by or in the possession of any agency of the State and used in connection with a function transferred by this Chapter to the Department shall, on the effective date of this Chapter, be delivered into the custody of the Department. All investigations, petitions, hearings, and legal proceedings pending before, or instituted by or against, any agency from which functions are transferred by this Chapter and which are not concluded prior to the effective date of this Chapter shall continue unabated and remain in full force and effect, notwithstanding the passage of this Chapter and, where necessary, may be completed before, by or in the name of the Department. All orders, rules and regulations made by any agency from which functions are transferred by this Chapter and which govern such functions, and which are in effect upon the effective date of this Chapter, shall remain in full force and effect until revoked or modified in accordance with law by the Department. All contracts and obligations of any agency made or undertaken in the performance of a function transferred by this Chapter to the Department and being in force on the effective date of this Chapter, shall, notwithstanding this Chapter, remain in full force and effect and be performed by the Department.

B.(1) All facilities, institutions, resources, property, and equipment of such facilities or institutions which are used for children and specifically Ferris School for Boys, Woods Haven-Kruse School for Girls, Bridge House, Stevenson House and Terry Children's Psychiatric Center, now under the administrative control of the Department of Health and Social Services and Department of Correction; and all authority, duties, and responsibilities respecting such facilities and institutions, and their administration, control, conduct and operation which prior to the effective date of this Chapter, was vested in the Department of Health and Social Services and Department of Correction, or any other department, agency, bureau, division or office of the State of Delaware, are hereby transferred to the Department of Services for Children, Youth and Their Families.

(2) The Department of Health and Social Services shall continue to provide the maintenance, utilities, and other support services, as defined by the Budget Director, for the facilities known as the Governor

Bacon Health Center Children's Village. All resources and equipment associated with these facilities, now under the administrative control of the Department of Health and Social Services, are hereby transferred to the Department of Services for Children, Youth and Their Families.

C. All children who, on the effective date of this Chapter, are under the supervision, care or protection or in the custody of the Department of Health and Social Services, Department of Services for Children, Youth and Their Families, Division of Child Protective Services, Division of Mental Health or the Department of Correction, Bureau of Juvenile Correction, or have been placed on probation under Family Court supervision shall be deemed to be under the supervision, care or protection, or in the custody of the Department of Services for Children, Youth and Their Families as of the effective date of this Chapter.

D. Employees of any commission, bureau, department, division or agency whose functions are consistent with this Chapter and who have been transferred to the Department of Services for Children, Youth and Their Families by this Chapter, shall continue and be deemed to be the employees of the Department on the effective date of this Chapter, and, where applicable, with all the benefits accrued a merit employees as of the effective date of this Chapter.

E. All youth probation counselors who are employed by the Family Court and any other Individuals who are otherwise employed by the Family Court in connection with the provision of youth probation services and any authorized positions for the same shall be transferred to the Department and deemed to be employees of the Department on the effective date of this Chapter, where applicable, with all the benefits accrued as merit employees as of the effective date of this Chapter.

F. All definitions and references to any commission, board, department, council, division, or agency which appear in any other act or law shall, to the extent that they are consistent with this Chapter and in connection with a function transferred by this Chapter to the Department or to any subdivision thereof or to any council or office created by this Chapter, be construed as referring and relating to the Department of Services for Children, Youth and Their Families as created and established by this Chapter.

G. All definitions and references to any director, commissioner, executive secretary, commission, board or council member or other similar person which appear in any other act or law shall, to the extent that same are consistent with this Chapter, and in connection with a function transferred to the Department, be construed as referring or relating to such person or persons and their powers, duties and functions as established and created by this Chapter.

H. The Secretary of the Department and Division Directors, who hold such position just prior to the effective date of this Chapter shall be and continue to act in their respective capacities until death, resignation or removal. The purpose is to transfer all functions of the existing Department into the new Department.

§9013. Appropriated Funds

Notwithstanding any other provision of State Law, any sums appropriated to any division, commission, department, council, agency or person affected by this Act and any funds appropriated for the provision of child protective services, child mental health services, youth correctional services and youth probation services which, on the effective date of this Chapter, are unencumbered, encumbered or unexpended and any authorized positions affected by this Act shall be and are hereby appropriated and transferred to the Department of Services for Children, Youth and Their Families. The Budget Director and the Controller General are hereby authorized and directed to make such transfers of funds and positions as may be required to carry out the provisions of this Act.

§9014. Annual Report

The Secretary of the Department shall make an annual report to the Governor and the General Assembly of the Department's operations and render such other reports as the Governor or General Assembly may request or as may be required by law.

§9015. Misnomer of Department in Donation

Any misnomer shall not defeat or annul any gift, grant, devise or bequest to the Department if it sufficiently appears by the will, conveyance or other writing that the party making the same intended to pass and convey to the Department or to any commission, board, department, authority, council or agency, to which, by this Chapter, the powers, duties and functions have been transferred to the Department, the estate or interest therein expressed or described.

§9016. Budgeting and Financing

The Secretary, in cooperation with the Department directors and office administrators, shall prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

Special funds may be used in accordance with approved programs, grants and appropriations.

§9017. Confidential Information

In the course of performing its functions as enumerated in this Chapter, the Department shall be entitled to inspect and copy all records regarding any children in the care, supervision, protection or custody of the Department and their parents, guardians, caretakers, or custodians which are maintained and controlled by the Department of Health and Social Services.

The Department shall have the discretion to release information from its records to public and private agencies if it determines that such release will serve the best interest of children in its care.

In releasing the aforementioned records pursuant to this section, the Department and the Department of Health and Social Services and their employees shall have immunity from any civil or criminal liability.

This section shall not be construed to override any confidentiality provisions provided under State or federal law which govern any records in the control of the Department of Health and Social Services, including but not limited to, the following statutes: §5161 (A)(7), Chapter 51, Delaware Code; §1121 (6), Chapter 11, Title 18, Delaware Code; §157, Chapter 1, Title 16, Delaware Code; §702, Chapter 7, Title 16, Delaware Code; and §2802, Chapter 28, Title 31, Delaware Code.

§9018. Supremacy

All other laws or parts of laws now in effect inconsistent with this Chapter are hereby repealed, superseded, modified, or amended so far as necessary to conform to and give full force and effect to, this Chapter."

Section 15. Amend §§98903(2Xb) and 8904(1Xb), Chapter 89, Title 29, Delaware Code and §§6503(6) and 6504(14), Chapter 65, Title 11, Delaware Code by striking in their entireties.

Section 16. Amend §8905(b), Chapter 89, Title 29, Delaware Code by striking the words "the Chief of the Bureau of Juvenile Correction" and inserting in lieu thereof the following:

"and the Chief of the Bureau of Adult Correction."

Section 17. Amend §8905(c), Chapter 89, Title 29, Delaware Code by striking in its entirety and inserting a new §8905(c) in lieu thereof a new §8905(c) to read as follows:

"(c) The Council on Correction shall be composed of 11 members. Ten members shall be appointed for 3 year terms by the Governor, and additionally the Governor shall appoint a Chairperson to serve at his pleasure. The Council shall consider matters relating to the development and progress of the adult correctional system of this State, including correctional facilities and services provided to adult offenders.

Section 18. Amend §8907, Chapter 89, Title 29, Delaware Code by striking the words "and the Division of Juvenile Corrections".

Section 19. Amend §911, Chapter 9, of Title 10 of the Delaware Code, by striking in its entirety and inserting in lieu thereof a new Section 911 to read as follows:

"§911. Supervisors; Counselors; Qualifications; Duties

There shall be a Chief Supervisor for the Court in each county who shall possess an earned graduate degree in either criminology, and/or corrections, sociology, psychology or social work, and such other supervisors as shall have an earned graduate degree in social work, and such counselors as deemed necessary who shall possess earned bachelors degrees. Other counselors may be appointed by the Chief Judge who shall possess such qualifications as the Chief Judge shall prescribe. They shall perform such duties as may be assigned to them:

Section 20. Amend §§5101, 5102, and 5109, Chapter 51, Title 31, Delaware Code; §5221, Chapter 52, Title 31, Delaware Code and §§922(7), 934(bX3), 936(l), (37)(bX1) and 972(b), Chapter 9, Title 10,

Delaware Code by striking the words "Department of Health and Social Services" wherever they appear and Inserting In lieu thereof the following:

"Department of Services for Children, Youth and Their Families."

Section 21. Amend SS5109 and 5112, Chapter 51, Title 31, Delaware Code by striking the words "Division of Juvenile Corrections" and inserting In lieu thereof the following:

"Division of Youth Rehabilitation Services."

Section 22. Amend §937(bX7), Chapter 9, Title 10, Delaware Code by striking M its entirety and inserting in lieu thereof the following:

"(7) Grant the care or custody of a child to any division of the Department of Services for Children, Youth and Their Families provided by the State for the care of children;"

Section 23. Amend §937(bX17) S937(cX1), (2) and (3), Chapter 9, Title 10, Delaware Code by striking the words "Department of Correction" wherever they appear and inserting in lieu thereof the following:

"Department of Services for Children, Youth and Their Families."

Section 24. Amend §937(c)(6) by striking the word "Department" and inserting in lieu thereof the following:

""Department of Services for Children, Youth and Their Families."

Section 25. Amend §5102, Chapter 51, Title 16, Delaware Code by striking in its entirety and inserting in lieu thereof a new §5102 to read as follows:

§102. Authorization to Receive Federal Funds: Disposition

The Department, may apply for and receive such funds as may be made available from any agency of the Federal government as grants in aid of programs for mental health or for the mentally retarded. All moneys so received shall be paid into the State Treasury and may be used only for the purposes for which they were granted."

Section 26. Amend §5109(a) Chapter 51, Title 16, Delaware Code by striking it in Its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The Secretary of the Department of Health and Social Services is responsible for the total adult mental health program supported by the State, including inpatient, outpatient, day care and emergency services, public education and information and the performance of such other duties as may be delegated to the Secretary."

Section 27. Amend §5303, Chapter 53, Title 16, Delaware Code by striking In Its entirety and inserting in lieu thereof a new S5303 to read as follows:

"§5303. Sections within Center

(a) The Department of Health and Social Services may establish the following sections at the Center, under the direction of the Division of Mental Health:

(1) A section for adults who suffer from mental and physical disorders, but who are without frank psychosis and who require only nursing care.

(2) Any other section which the Department of Health and Social Services deems related to health and welfare problems of adults.

(b) The Department of Services for Children, Youth and Their Families may establish the following sections at the Center, under the direction of the Division of Child Mental Health:

(1) A section for the evaluation, care and treatment of adolescents who are either seriously emotionally maladjusted or mentally ill, who are amenable to modern cure and treatment and who appear to meet the admissions criteria for care and treatment. Evaluation may include social, psychological and psychiatric study and examination.

(2) Any other sections which the Department of Services for Children, Youth and Their Families deems related to mental health and welfare problems of children and youth.

Section 28. Amend §5304, Chapter 53, Title 16, Delaware Code by striking in its entirety and inserting in lieu thereof a new §5304 to read as follows:

"§5304. Powers of Department of Health and Social Services and Department of Services for Children, Youth and Their Families; Cooperation of other State Agencies

The Department of Health and Social Services and Department of Services for Children, Youth and Their Families may determine the size and accommodations required for any section established by the respective departments pursuant to §5303 of this Chapter; the medical treatment, training and education of patients or persons admitted to such sections; and any and all matters or programs related to the study, comfort, care and treatment of each patients or persons. The Department of Health and Social Services and Department of Services for Children, Youth and Their Families, in making any of the foregoing determinations, may call upon and receive the cooperation, advice and assistance of any other state department, institution, commission or agency performing education, health or welfare functions."

Section 29. Amend §5321 (9), Chapter 53, Title 16, Delaware Code by striking in its entirety and inserting in lieu thereof a new §5321 (9) to read as follows:

"(9) In all other cases, no person shall be admitted to the Center except in accordance and in compliance with the rules and regulations which are adopted by the Department of Health and Social Services or Department of Services for Children, Youth and Their Families governing the admissions to their respective sections within the Center.

Section 30, Amend §5322, Chapter 53, Title 16, Delaware Code by striking it in its entirety and inserting in lieu thereof a new §5322 to read as follows:

"§5322. Admission Procedures: Rules and Regulations

(a) Notwithstanding anything contained in this section and §5321 of this Chapter, no person shall be eligible for admission to the Center, except by commitment of a court having authority to commit any person to the Center, unless and until such person is determined to be eligible for admission by the Department of Health and Social Services or the Department of Services for Children, Youth and Their Families.

(b) The Department of Health and Social Services and Department of Services for Children, Youth and Their Families may make and adopt reasonable rules and regulations governing the admission of persons to their respective programs at the Center which are not inconsistent with the provisions of this Chapter.

(c) The Department of Health and Social Services and the Department of Services for Children, Youth and Their Families may also refuse the admission of any person to their respective programs at the Center, except such persons committed by a court having authority under law to make such commitment, when the department to which any such person should be assigned is unable for any reason to accommodate any such person."

Section 31. Amend §5324 (a) by striking in its entirety and inserting in lieu thereof a new §5324 (a) to read as follows:

"(a) Any institution of this State may transfer any person who is an inmate of any such institution to the Center if such person is eligible for transfer in accordance with the provisions of this Chapter. Any such transfer shall be subject to the rules and regulations governing the Center as made and adopted by the Department of Health and Social Services or Department of Services for Children, Youth and Their Families. If any such inmate has been committed to any institution by a court of this State, such institution shall apply to such court for authority to transfer any such person to the Center."

Section 32. Amend §5327, Chapter 53, Title 18, Delaware Code by striking it in its entirety and inserting in lieu thereof a new §5327 to read as follows:

"§5327. Release and Discharge of Patients

The Department of Health and Social Services and Department of Services for Children, Youth and Their Families may make and adopt rules and regulations in respect to the release, whether temporary or permanent, of patients in their respective programs at the Center, except that any person committed to the Center by a court of this State shall not be released from the Center except upon an order from such court. When a person committed by any such court is eligible for release, the Department of Health and Social Services or the Department of Services for Children, Youth and Their Families may petition such court for the release of any such patient."

Section 33. Amend §8526 by striking it in its entirety and inserting in lieu thereof a new §8526 to read as follows:

"§6526 Special Facilities For Witnesses and Those Awaiting Trial

Special facilities shall be provided for witnesses detained for inability to give bail and those awaiting trial, as the Department deems fit and necessary."

Section 34. If any provision of this Act, or of any rule, regulation or order thereunder of the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid, shall not be affected hereby.

Section 35. Sections 1 through 13 inclusively and Section 34 of this Act shall become effective on July 1, 1983 with Sections 14 through 33 inclusively becoming effective upon the transfer of resources by the Budget Director and Controller General pursuant to an Executive Order of the Governor, but in no event later than July 1, 1984.

Approved July 8, 1983.