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Signature of Sponsor

AMEND Senate Bill No. 3176*

House Bill No. 3166

by inserting in Section 1 the words "or other appropriate title and chapter of Tennessee Code Annotated as determined by the code commission" after the words and punctuation "Chapter 3,".

AND FURTHER AMEND by deleting in Section 3 the word "partnership" in the first sentence and by substituting instead the word "cooperation."

AND FURTHER AMEND by deleting in Section 4(a) the words "or neglect" in the first sentence.

This section is further amended by deleting the words "age two or younger".

This section is further amended by deleting the words "developmentally appropriate discipline" and substituting instead "reasonable discipline".

This section is further amended by deleting the words "over two years of age".

This section is further amended by deleting the word "minimally" after the word "provide" and before the words "adequate food, medical care, shelter, or supervision".

This section is further amended by deleting the last sentence in its entirety.

AND FURTHER AMEND by deleting in Section 4(c) the word "or" which is after the word and punctuation "drug," and by adding after the word "homicide" the following punctuation and words ", or any other traffic offense classified as a felony".

AND FURTHER AMEND by deleting Section 4(d) in its entirety and by substituting instead the following language:

(d) "Child" means, as defined in §37-1-102(b)(4):

(1) A person under eighteen (18) years of age; or

(2) A person under nineteen (19) years of age for the limited purpose of:

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(A) remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition that was entered prior to a person's eighteenth (18th) birthday; or

(B) remaining under the jurisdiction of the juvenile court for resolution of delinquent offense(s) committed prior to a person's eighteenth (18th) birthday but considered by the juvenile court after a person's eighteenth (18th) birthday; or

(C) remaining under the continuing jurisdiction of the juvenile court to enforce home placement supervision.

(3) In no event, shall a person eighteen (18) years of age or older be committed to the department of children's services or any other department or agency under this part. However, the court may enter an order of disposition under §37-1-131(2), (5), (7), or Section 93 of this bill when dealing with cases under paragraph (2)(B).

(4) This provision shall in no way be construed as limiting the court's jurisdiction to transfer a person to criminal court under §37-1-134.

(5) A person eighteen (18) years of age is legally an adult for all other purposes including, but not limited to, enforcement of the court's orders under this subsection through its contempt power under §37-1-158.

(6) No exception shall be made for a child who may be emancipated by marriage or otherwise.

AND FURTHER AMEND by deleting Section 4(l) in its entirety and substituting the following language:

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(l) "Legal custodian" means a person or agency to whom legal custody of a child has been given by court order. A legal custodian has the right to physical custody of the child; the right to determine the nature of the care and treatment of the child, including ordinary medical care; and the right and duty to provide for the care, protection, training, education, and physical, mental and moral welfare of the child. Such rights and duties are, however, subject to the conditions and limitations of the order granting legal custody and to the remaining rights and duties of the child's parent(s).

AND FURTHER AMEND by deleting Section 4(o) in its entirety and substituting instead the following language:

(o) "Unruly" means: (1) as defined in §37-1-102(b)(21), a child in need of treatment and rehabilitation who:

(A) Habitually and without justification is truant from school while subject to compulsory school attendance under §49-6-3007; or

(B) Habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian, or other legal custodian to the degree that such child's health and safety are endangered; or

(C) Commits an offense which is applicable only to a child; or

(D) Is away from the home, residence, or any other residential placement of his parent(s), guardian, or other legal custodian without their consent. Such child shall be known and defined as a "runaway."

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(2) The above definition shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in §37-1-102(b)(21), 1995 supplement to the Tennessee Code Annotated.

AND FURTHER AMEND by deleting Section 6(a) in its entirety and by substituting instead the following language:

(a) Select and recommend to the appropriate state officials the employment or transfer of all personnel required for the operation of the department, except however, the transfer of any employees pursuant to this act shall not result in any impairment, interruption, or diminution of employee rights, privileges, salary, benefits, leave accumulation or employment;

AND FURTHER AMEND by inserting after the words and punctuation in Section 6(d) "general assembly," the words and punctuation "other persons and relevant entities that may request the report such as the Tennessee Council of Juvenile and Family Court Judges and the Tennessee Commission on Children and Youth,".

AND FURTHER AMEND by deleting Section 6(l)((1) in its entirety and by substituting instead the following language:

(l)(1) Establish a children's services advisory council having fifteen (15) members appointed by the commissioner to act in an advisory capacity on any matter within the jurisdiction of the department. Appointees to the council shall include, but not be limited to, representatives of local law enforcement, mental health professionals, local education agencies, juvenile court officials, social workers, health care providers, consumers of services such as parents, foster parents, or family members of children who are or have been recipients of

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services from the department, child advocates, persons having specialized knowledge or experience, and public and private agencies which provide services to children. The members of the council shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender. Each community services agency region shall be represented by at least one individual on the council.

AND FURTHER AMEND by deleting the words in Section 7(p)(1), (2), and (3) in their entirety and by substituting instead the following:

(p) Administer and coordinate the Tennessee Preparatory School, a special school of the state board of education, on behalf of the state board of education.

AND FURTHER AMEND by adding after the last sentence in Section 8(a) the following language:

The department may release records to a person or entity who may be providing system and/or program evaluation. However, such person or entity shall be required to maintain such records in accordance with state and federal laws and regulations regarding confidentiality.

AND FURTHER AMEND by deleting in Section 9 the word "resolution" and by substituting instead the word "prohibition".

AND FURTHER AMEND by adding in Section 9 as a new sentence at the end of the section the following language:

The department shall exercise this power and authority consistent with the provisions regarding conflicts of interest under Tennessee Code Annotated, Title 12, Chapter 4, Part 1.

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AND FURTHER AMEND by inserting in Section 10 (d) at the end of the sentence after the word "agency" the words "unless notified to the contrary by the department of children's services".

AND FURTHER AMEND by adding as a new subsection (e) to Section 10 the following language:

(e) Subject to the exemptions set out in T.C.A. Section 71-3-527, pursuant to promulgated rules and regulations the department will license or approve or supervise any entity which provides residential services to children and is not otherwise subject to licensure or approval or supervision by any other agency as required by state law.

AND FURTHER AMEND by adding in Section 13 the following language as a new appropriately designated subsection:

() In order to comply with the effective date set forth within this act, the department may implement its rulemaking authority through promulgation of public necessity rules in accordance with §4-5-209. Upon delivering a draft of any such public necessity rules to the attorney general and reporter for approval as required by such section, the department shall simultaneously deliver a copy of such draft public necessity rules to the chair of the government operations committee of the senate and to the chair of the government operations committee of the house of representatives.

AND FURTHER AMEND by deleting Section 14 in its entirety and by substituting instead the following language:

SECTION 14. Accreditation. The department of children's services shall have its youth development centers accredited by a regionally or nationally recognized accreditation body

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such as the American Correctional Association, the Council on Accreditation, or other accreditation agency.

AND FURTHER AMEND by inserting in the second sentence of Section 38 after the word "report" the following words "with such hearing to be held at the earliest possible date".

AND FURTHER AMEND by deleting in Section 54 the words "the commissioner of the department of children's services" and substituting instead the words "legal custodian".

AND FURTHER AMEND by deleting in Section 56 the words "the commissioner of the department of children's services in cases involving minors in the custody of the department of children's services" and by substituting instead the words "legal custodian".

AND FURTHER AMEND by deleting Section 69 in its entirety and by substituting instead the following language:

SECTION 69. Tennessee Code Annotated Title 36, Chapter 1, Parts 1 and 2 are amended by deleting the words "department of human services" wherever they appear and by substituting instead the words "department of children's services."

AND FURTHER AMEND by deleting in Section 73 the words, numerals and punctuation "Title 37, Chapter 3, Parts 1, 2, 4, 5, and 6" and by substituting instead the words, numerals, and punctuation "Title 37, Chapter 3, Parts 2, 4, 5, and 6".

AND FURTHER AMEND by deleting in Section 77 the words "or neglect" in the first sentence.

This section is further amended by deleting the words "age two or younger".

This section is further amended by deleting the words "over two years of age".

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This section is further amended by deleting the word "minimally" after the word "provide" and before the words "adequate food, medical care, shelter, or supervision".

This section is further amended by deleting the words "developmentally appropriate discipline" and by substituting instead "reasonable discipline".

This section is further amended by deleting the last sentence in its entirety.

AND FURTHER AMEND by deleting all the language after the directory language in Section 78 and by substituting instead the following:

(3) "Adult" means any person eighteen (18) years of age or older;

(4)(A) "Child" means a person under eighteen (18) years of age; or

(B) A person under nineteen (19) years of age for the limited purpose of:

(i) remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition that was entered prior to a person's eighteenth (18th) birthday; or

(ii) remaining under the jurisdiction of the juvenile court for resolution of delinquent offense(s) committed prior to a person's eighteenth (18th) birthday but considered by the juvenile court after a person's eighteenth (18th) birthday; or

(iii) remaining under the continuing jurisdiction of the juvenile court to enforce home placement supervision.

(C) In no event, shall a person eighteen (18) years of age or older be committed to the department of children's services or any other department or agency under this part. However, the court may enter an order of disposition under §37-1-131(2), (5), (7), or Section 93 of this bill when dealing with cases under paragraph (B)(ii).

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(D) This provision shall in no way be construed as limiting the court's jurisdiction to transfer a person to criminal court under §37-1-134.

(E) A person eighteen (18) years of age is legally an adult for all other purposes including, but not limited to, enforcement of the court's orders under this subsection through its contempt power under §37-1-158.

(F) No exception shall be made for a child who may be emancipated by marriage or otherwise.

AND FURTHER AMEND by deleting all the language after the directory language in section 83 and substituting instead the following:

(21)(A) "Unruly child" means a child in need of treatment and rehabilitation who:

(i) Habitually and without justification is truant from school while subject to compulsory school attendance under §49-6-3007; or

(ii) Habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian, or other legal custodian to the degree that such child's health and safety are endangered; or

(iii) Commits an offense which is applicable only to a child; or

(iv) Is away from the home, residence, or any other residential placement of his parent(s), guardian, or other legal custodian without their consent. Such child shall be known and defined as a "runaway."

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(B) The above definition shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in §37-1-102(b)(21), 1995 supplement to the Tennessee Code Annotated.

AND FURTHER AMEND by deleting all the language after the directory language in Section 85 and by substituting instead the following language:

(c) When jurisdiction has been acquired under the provisions of this part, such jurisdiction shall continue until a person reaches the age of eighteen (18), except that the court may extend jurisdiction for the limited purposes set out in §37-1-102(b)(4)(B) until the person reaches the age of nineteen (19).

AND FURTHER AMEND by deleting in Section 86 the words and numerals "thirty (30) days" and by substituting instead the words and numerals "fifteen (15) days which may be extended up to thirty (30) days for good cause".

AND FURTHER AMEND by deleting in Section 88 the numerals "45" wherever they appear and by substituting instead the words and numerals "thirty (30)".

AND FURTHER AMEND by inserting in Section 91 in the second sentence of (e)(1) after the words "of the notice" the words "with such hearing to be held at the earliest possible date".

AND FURTHER AMEND by deleting in Section 91 the last sentence in (e)(2) in its entirety and substituting instead the following:

The court shall hold a hearing on such motion within three (3) days of an emergency removal and shall set a hearing within fifteen (15) days to be held at the earliest possible date if the motion seeks the court's permission to make a non-emergency removal.

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AND FURTHER AMEND by deleting Section 94 in its entirety and substituting instead the following language:

SECTION 94. Tennessee Code Annotated, Section 37-1-132, is amended by deleting the subsection in its entirety and substituting instead the following new language:

(a) If the child is found to be an unruly child, the court may make such disposition as authorized by §37-1-131(2) or (5) or Section 93 of this bill that is best suited to such child's treatment. However, no child found to be an unruly child may be placed on probation under the supervision of the department of children's services, unless such child is found to also be a delinquent child or is found to have committed a violation of a valid court order as provided for in the Appendix to the Tennessee Rules of Juvenile Procedure. No county government may be required to increase local funding to implement this provision. The court has the additional dispositional alternative of ordering the department of children's services to provide non-custodial services to a child found to be unruly.

(b)(1) If the court finds that it is in the best interest of the child and the public that any unruly child be removed from the home of a parent, guardian, or other legal custodian, the placement of the child shall be with the person, agency, or facility that presents the least drastic or restrictive alternative.

(2) If the court desires to commit an unruly child to the custody of the department of children's services, it shall, prior to ordering commitment, refer such child to the department's juvenile-family crisis intervention program under §37-1-168. The court may commit the child to the department of children's services after such juvenile-family crisis intervention program

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certifies to the court that there is no other less drastic measure than court intervention. Nothing in this subdivision shall preclude placing a child in protective service custody.

(c)(1) When the department determines that a child who has been committed to the department under this section is ready to return home, the department shall notify the court in writing of its intention to place the child at home on a trial home visit. If the court objects to the trial home visit, it must notify the department of its objection in writing or set a hearing within fifteen (15) days of the date of the notice with such hearing being held at the earliest possible date. If a hearing is not set nor a written objection received within fifteen (15) days of the date of the notice, the department may place the child on a trial home visit. The notice shall include the provision that the department's legal custody of the child shall terminate in thirty (30) days.

(2) If during the thirty (30) day period the department determines that the trial home visit is not in the child's best interest and removes the child on an emergency basis or seeks to remove the child on a non-emergency basis, the department shall file a motion for review by the court of the trial home visit and shall provide notice to the parent(s), guardian, or other custodian. The court shall hold a hearing on such motion within three (3) days of an emergency removal and shall set a hearing within fifteen (15) days to be held at the earliest possible date if the motion seeks the court's permission to make a non-emergency removal.

(3) During the thirty (30) day trial home visit, the court may periodically review the child's status and may make any orders that the best interest of the child may require.

AND FURTHER AMEND by deleting all the language after the directory language in Section 95 and by substituting instead the following language:

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(d) If a person eighteen (18) years of age or older is to be charged with an offense which was alleged to have been committed prior to such person's eighteenth (18th) birthday, the petition shall be brought in the juvenile court which would have had jurisdiction at the time of the offense. The juvenile court shall either judicate the case under its continuing jurisdiction authority under §37-1-102(b)(4)(B)and (C) or undertake transfer proceedings consistent with this section.

AND FURTHER AMEND by deleting Section 100 in its entirety and substituting instead the following language:

SECTION 100. Tennessee Code Annotated, Section 37-1-137(c)(1) is amended by deleting the third sentence in its entirety and substituting instead the following language:

Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the home placement. The first thirty (30) days after the child's return home shall be a trial home pass with the department retaining legal custody of said child. If the child successfully completes the trial home pass, at the end of the thirty (30) day trial home pass the child shall automatically be placed on home placement supervision status, and the department's legal custody of the child shall terminate.

AND FURTHER AMEND by deleting Section 102 in its entirety and substituting instead the following language:

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SECTION 102. Tennessee Code Annotated, Section 37-1-137(g)(1) is amended by deleting the third sentence in its entirety and substituting instead the following language:

Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the discharge.

AND FURTHER AMEND by deleting Section 106 in its entirety and substituting instead the following language:

SECTION 106. Tennessee Code Annotated, Section 37-1-168, is amended by deleting the section in its entirety and by substituting instead the following new language:

37-1-168. Juvenile-family crisis intervention programs --General provisions. -- (a) The department of children's services shall establish juvenile-family crisis intervention programs to provide continuous twenty-four (24) hour on-call service designed to attend and stabilize juvenile-family crises. The crisis intervention program may, in appropriate cases, work with the family on a short-term basis. The juvenile-family crisis intervention program may make referrals for appropriate services needed to continue resolution of the crisis.

(b) The juvenile-family crisis intervention programs may serve as an alternative to juvenile court in situations where a juvenile-family crisis exists and there has been either:

(1) a request by a parent or juvenile for intervention; or

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(2) a referral by a public or private agency, educational institution, or any other organization serving children, which has contact with the juvenile or family, and has reason to believe that a family crisis exists.

(c) If there has already been court intervention through the filing of a petition or otherwise, the court may refer appropriate cases to the juvenile-family crisis intervention program. If the department is providing non-custodial services to a child and/or family, it may provide services through its juvenile-family crisis intervention program if appropriate.

(d) If, in the judgment of the juvenile-family crisis intervention program, a juvenile-family crisis continues to exist despite the provision of crisis intervention services and the exhaustion of appropriate community services, then the juvenile-family crisis intervention program shall certify to the juvenile court that resolution of the juvenile-family crisis is not feasible without further court intervention. The court may then proceed by accepting a petition or acting on a pending petition and hold a hearing to determine what is in the best interest of the child consistent with §37-1-132 and any other applicable laws under this part.

AND FURTHER AMEND by deleting Section 107 in its entirety and substituting instead the following language:

SECTION 107. Tennessee Code Annotated, Section 37-1-169, is amended by deleting the section in its entirety and substituting instead the following new language:

By promulgation of local rules of the juvenile court, a referral may be made to the department of children's services juvenile-family crisis intervention program in the following instances: (1) where there is an allegation that a child is unruly; and/or (2) where there is an

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allegation that a juvenile-family crisis exists. Nothing in this section shall preclude the court or the department from taking any necessary action which shall be required to provide to a child any protective services including, but not limited to, emergency protective custody.

AND FURTHER AMEND by deleting Section 111 in its entirety and substituting instead the following language:

SECTION 111. Tennessee Code Annotated, Title 37, Chapter 2, Part 4, is amended by deleting the words "foster care plan" wherever they appear and by substituting instead the words "permanency plan".

AND FURTHER AMEND by deleting in Section 112 the punctuation and words "'Plan" or "plan of care"' and substituting instead the punctuation and words "Plan" or "permanency plan"'.

This section is further amended by deleting the punctuation "." after the word "department" at the end of the section and adding at the end of the section after the word "department" the following language and punctuation:

This section is further amended by adding at the end of the section after the word "department" the following language and punctuation:

, including the goal that the child shall exhibit lawful and productive behavior both while in custody and after reunification with his/her family and/or return to the community. Further, such document shall set out requirements to achieve family re-unification or other appropriate plan for permanence for the child.

AND FURTHER AMEND by deleting in Section 115 the numerals and letters "37-2-403(d)" and substituting instead the word and numeral "Section 113".

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AND FURTHER AMEND by deleting in Section 116 the numerals and letters "37-2-403(d)" and substituting instead the word and numeral "Section 113".

AND FURTHER AMEND by deleting Section 141 in its entirety.

AND FURTHER AMEND by adding in Section 144 the numerals and punctuation "37-1-132," after the words "with the provisions of §§."

AND FURTHER AMEND by deleting Section 145 in its entirety.

AND FURTHER AMEND by deleting Section 149 in its entirety and substituting instead the following new Section 149:

(a)(1) Tennessee Code Annotated Section 68-1-1101 is amended by deleting the section in its entirety and by substituting instead the following:

This part shall be known and may be cited as the "Community Services Agency Act of 1996."

(2) Tennessee Code Annotated Section 68-2-1102 is amended by deleting the section in its entirety and by substituting instead the following:

Community Services Agencies - Purpose. The purpose of this part is to provide a mechanism to facilitate the provision of services for children and other citizens in need of services in Tennessee through centralized agencies located throughout the state. The community services agencies may contract with the department of children's services and other agencies to provide assistance wherever needed.

(3) Tennessee Code Annotated Section 68-2-1103 is amended by deleting the section in its entirety and by substituting instead the following:

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Definitions. - As used in this part, unless the context otherwise requires:

(1) "Agency" means the community service agency;

(2) "Board" means the community services agency board;

(3) "Commissioner" means the commissioner of the department of children's services or the commissioner's designee;

(4) "Department" means the department of children's services;

(5) "Executive director" means the chief administrative officer of a community services agency; and

(6) "Child" means a minor who has been placed in the custody of the department of children's services or who is at imminent risk of being placed in such custody.

(4) Tennessee Code Annotated Section 68-2-1104 is amended by deleting the section in its entirety and by substituting instead the following:

Agencies - Establishment - Public Function and Purpose. - (a) The commissioner is authorized to establish community services agencies as provided in this part. These agencies will provide coordination of funds or programs designated for care of children and other citizens in the state.

(b) The commissioner may establish four (4) community services agencies in the following metropolitan areas:

(1) Memphis and Shelby County;

(2) Metropolitan Nashville-Davidson County;

(3) Knoxville and Knox County; and

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(4) Chattanooga and Hamilton County.

(c) The commissioner may establish eight (8) community services agencies in rural areas of the state coterminous with the boundary lines of the rural public health regions established by the commissioner of health.

(d) The community services agency shall be a political subdivision and instrumentality of the state. As such, it shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions, and shall be deemed to be serving a public purpose through improving and otherwise promoting the well-being of children and other citizens of the state.

(e) Nothing in this part shall be construed to prohibit an urban/metropolitan community services agency from utilizing the services of county/metropolitan employees for the provision of the services provided for pursuant to this act.

(5) Tennessee Code Annotated Section 68-2-1105 is amended by deleting the section in its entirety and by substituting instead the following:

Community services agency board - Creation - Members. - (a) There is hereby created in each community services agency a body politic and corporate to be known as the community services agency board.

(b) The membership of each board serving a rural community services agency shall be appointed by the governor and consist of a representative of each county within the agency boundary and the commissioner or the commissioner's designee.

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(c) The membership of each board serving a metropolitan community services agency shall consist of at least eleven (11) members appointed by the governor who will receive from the county executive recommendations reflective of the criteria in (d) and shall include the commissioner or the commissioner's designee.

(d) Appointees to the board in (b) and (c) shall include, but not be limited to, representatives of such areas as law enforcement, mental health professionals, local education agencies, juvenile court officials, social workers, health care providers, consumers of services of the department of children's services such as parents, foster parents, or family members of children who are or have been recipients of services of the department, child advocates, persons having specialized knowledge or expertise in children's issues, and public and private agencies which provide services to children. The members of each board shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender.

(e) The term of a member of the board shall be four (4) years with the terms staggered so as to replace no more than one fourth (1/4) of the members each year. Members of the boards may be reappointed after their terms expire.

(f) Members of the board shall continue in office until the expiration of the terms for which they were respectively appointed and until such time as their successors are appointed.

(g) Vacancies occurring on the board by such reasons as death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired terms.

(h) Members of the board shall not be compensated for services rendered to the agency, but will receive from the agency reimbursement for actual expenses to be paid in accordance

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with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(i) The board shall elect a chair from among its members. The board shall also elect other officers as the board finds necessary and appropriate. Such positions are for a period of one (1) year, but officers may be reelected to serve additional terms.

(j) If any matter before the board involves a project, transaction or relationship in which a member or the member's associated institution, business or board has a direct or a conflicting interest, the member shall make known to the board that interest and shall be prohibited from participating in discussions and voting on that matter.

(k) Any persons serving on the board of a former community health agency in a rural area shall serve on their respective community services agency board until the expiration of the term for which such person was appointed. Any persons serving on the board of a former community health agency in a metropolitan area shall serve on their respective community services agency board until July 1, 1996, or thereafter until their successors are appointed.

(6) Tennessee Code Annotated Section 68-2-1106 is amended by deleting the section in its entirety and by substituting instead the following:

Community Services Agency Board - Powers. - The board has the following powers and duties in addition to the powers and duties granted to or imposed upon it by other sections of this part to:

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(1) Adopt written policies, procedures, or rules and regulations to govern its internal operations. If such rules and regulations are proposed, they must be submitted for prior approval to the commissioner;

(2) Make and execute contracts and all other instruments necessary or convenient for the exercise of its duties and responsibilities under this part. All contracts pertaining to acquisitions and improvement of real property, pursuant to §4-15-102, must be approved in advance by the commissioner and the state building commission. Contracts for services must be approved pursuant to rules and regulations promulgated by the commissioner.

(3) Acquire or dispose of in the name of the board, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise, subject to subdivision (2);

(4) Procure insurance in amounts and from insurers which it deems desirable to protect itself in carrying out its duties and responsibilities under this part;

(5) Seek assistance from the commissioner of finance and administration, the comptroller of the treasury, the state treasurer, and other state agencies;

(6) Receive, administer, allocate and disburse funds made available under this part, funds and contributions from private or local public sources which may be used in support of a community services program, and funds made available under any federal or state assistance program for which an agency organized in accordance with the provisions of this part may serve as grantee, contractor, or sponsor of projects appropriate for inclusion in community services programs;

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(7) Perform other acts necessary or convenient to exercise the powers granted or reasonably implied in this part;

(8) Procure goods, materials, supplies and equipment in accordance with applicable state or federal guidelines, and where practical, on a competitive basis; and

(9) Contract with other state agencies to provide services to those agencies as deemed appropriate by the board.

(7) Tennessee Code Annotated Section 68-2-1107 is amended by deleting the section in its entirety and by substituting instead the following:

Commissioner of children's services.- Duties, powers.-The commissioner has the duty and responsibility to:

(1) Promulgate rules and regulations to carry out the commissioner's responsibilities under this part.

(2) Review and approve plans of operation submitted in accordance with § 11, with the concurrence of the commissioner of finance and administration and the comptroller of the treasury;

(3) Enter into such contracts, subject to applicable rules and regulations and procedures, as necessary to carry out the provisions of this part.

(4) Appoint an executive director for each agency to serve as chief administrative officer of the agency;

(5) Require each agency to submit annual reports on each preceding fiscal year to reflect the nature and extent of all financial transactions and to assure financial integrity; and

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(6) Perform other acts necessary or convenient to exercise the powers granted or reasonably implied in this part.

(8) Tennessee Code Annotated Section 68-2-1108 is amended by deleting the section in its entirety and by substituting instead the following:

Executive director - Employees and expenses. The executive director, subject to approval of the board and approval of the plan of operation pursuant to §11, has the authority to hire such employees and incur such expenses as may be necessary for proper discharge of the duties of the community services agency.

(9) Tennessee Code Annotated Section 68-2-1109 is amended by deleting the section in its entirety and by substituting instead the following:

Contracts for provisions of services - Termination. - (a) The community services agency shall, to the maximum extent possible, contract with private providers, clinics and local governments pursuant to § 11 for the provision of services for children and other citizens of the state.

(b) The agency shall terminate a contract under the following conditions;

(1) Fraud or misappropriation of funds;

(2) Delivery of services under the contract in a manner not consistent with the appropriate standard of care; or

(3) Other reasons provided under §11 and rules and regulations of the commissioner promulgated pursuant to this part.

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(c) Additionally, the community services agency shall have authority to terminate a contract for cause.

(10) Tennessee Code Annotated Section 68-2-1110 is amended by deleting the section in its entirety.

(11) Tennessee Code Annotated Section 68-2-1111 is amended by deleting the section in its entirety and by substituting instead the following:

Plan of operation. - (a) At least ninety (90) days prior to the beginning of each state fiscal year, the board shall submit a plan of operation for review and approval to the commissioners of children's services and finance and administration and the comptroller of the treasury. The plan of operation shall be in such form as may be required by the department and shall include, but not be limited to, the following:

(1) A budget for operating and capital expenditure;

(2) Contracts for services;

(3) Appropriate policies and procedures adopted by the board to govern the expenditures of funds; and

(4) Other items as required by the department through rules and regulations.

(b) The plan of operation may be amended during the fiscal year with the written approval of the commissioners of children's services and finance and administration and the comptroller of the treasury.

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(c) For the first year of operation, a plan of operation shall be submitted within 60 days of July 1, 1996. A plan currently in effect and a plan of operation previously approved for fiscal year 1996-97 shall remain in effect, unless and until properly amended.

(12) Tennessee Code Annotated Section 68-2-1112 is amended by deleting the section in its entirety and by substituting instead the following:

Disposition of funds. - (a) The executive director of each agency shall deposit with the state treasurer funds received from the United States Treasury and other funds earned, given or granted to the agency, including state funds.

(b) Such funds may be invested in the local government investment pool pursuant to Title 9, Chapter 4, Part 7.

(c) The board may establish such bank accounts pursuant to §9-4-302, as are necessary for the efficient management of the agency.

(13) Tennessee Code Annotated Section 68-2-1113 is amended by deleting the section in its entirety and by substituting instead the following:

Annual reports. - (a) Each board shall make an annual report to the governor and to the commissioner.

(b) This report shall contain an accounting for all money received and expended, statistics on persons served during the year, recommendations, and such other matters as the board deems pertinent.

(14) Tennessee Code Annotated Section 68-2-1114 is amended by deleting the section in its entirety and by substituting instead the following:

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Annual audit - Accounting records. - (a) The comptroller of the treasury shall make an annual audit of the program established by this part as part of the comptroller's annual audit pursuant to §9-3-211.

(b) The community services agencies shall maintain all books and records in accordance with generally accepted accounting principles, and at no less than those recommended in the "Accounting Manual for Recipients of Grant Funds in Tennessee" published by the comptroller of the treasury. Such records shall be made available for inspection to the department and/or the comptroller of the treasury, upon request.

(15) Tennessee Code Annotated Section 68-2-1115 is amended by deleting the section in its entirety and by substituting instead the following:

State Employees. - Employees of the community services agencies shall be considered "state employees" for purposes of §9-8-307. Designated volunteers providing services under this part shall also be considered "state employees" for purposes of §9-8-307; provided, that designated volunteers who are medical professionals providing direct health care pursuant to this part shall be considered "state employees" solely for the category of "professional malpractice" pursuant to § 9-8-307.

(16) Tennessee Code Annotated Section 68-2-1116 is amended by deleting the section in its entirety.

(17) Tennessee Code Annotated Section 68-2-1117 is amended by deleting the section in its entirety and by substituting instead the following:

Construction - Generally. - This part shall be given the following construction:

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(1) This part shall be construed as remedial legislation and shall be given liberal construction to effectuate its purpose;

(2) This part shall not be construed as creating an employer-employee relationship between the department, the community services agencies or their contractors; and

(3) If any provision of this part or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provisions or applications, and to that end the provisions of this part are declared to be severable.

(18) Tennessee Code Annotated Section 68-2-1118 is amended by deleting the section in entirety and by substituting instead the following:

Participation in retirement system.- Community services agencies shall be eligible to be a participating employer in the Tennessee consolidated retirement system.

(b) All liabilities owed by a community health agency and all assets of whatever kind and nature and wherever located, including, but not limited to, real property, personal property, cash, equipment, and fund balances held in the name of a community health agency shall be transferred to the appropriate community services agency.

(c) The employees of a community health agency shall be transferred to the appropriate community services agency, and such transfer shall not constitute a break in service for such employees.

(d) No action taken pursuant to this act shall be deemed to change the structure of the organization, formerly known as a community health agency, for federal tax reporting purposes,

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nor reduce employees' benefit-related plans including, but not limited to, retirement plans, deferred compensation plans, cafeteria plans, and health plans.

(e) Contracts or leases entered into prior to the effective date of this act by and between a community health agency and any entity shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of such contracts or leases as if such contracts or leases had originally been entered into by and between such entities and the appropriate community services agency, unless and until such contracts or leases are amended or modified by the parties thereto or until the expiration of such contracts or leases.

(f) The Tennessee Code Commission is directed to transfer Title 68, Chapter 2, Part 1101 et seq. to the appropriate title pertaining to the department of children's services and to renumber its provisions appropriately.

AND FURTHER AMEND by deleting in Section 162 in the definition for ""Group child care home" the words "on school snow days, and during summer vacation" and substitute instead the following words "before and after school, on school holidays, on school snow days, and during summer vacation".

AND FURTHER AMEND by deleting Section 163 in its entirety and by substituting instead the following language:

SECTION 163. (a) Section 71-3-504 is amended by adding the words "or foster homes" after the words "boarding homes" in subdivision (a)(2).

(b) Section 71-3-504 is further amended by adding as a new, appropriately designated subsection the following language:

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() Notwithstanding any law to the contrary, the department may for purposes of licensing or approving or supervising child welfare agencies under its jurisdiction provide by rules and regulations promulgated under §4-5-201 et seq. for acceptance of accreditation by regionally or nationally recognized accreditation bodies such as the Council on Accreditation or other accreditation agency.

AND FURTHER AMEND by deleting the word "Correctional" in Section 165 and by substituting instead the word "Corrections".

AND FURTHER AMEND by deleting Section 166 in its entirety.

AND FURTHER AMEND by deleting Section 167 in its entirety and substituting instead the following language:

SECTION 167. Tennessee Code Annotated, Section 71-3-506(b) is amended by deleting all the numbers, language and figures following the words "with the following schedule" and by substituting instead the following:

- | | |
|--|---------|
| (1) Family child care home | \$ 5.00 |
| (2) Group child care home | 10.00 |
| (3) Child care center--Less than 50 | 15.00 |
| (4) Child care center--50 to 100 | 20.00 |
| (5) Child care center--More than 100 | 25.00 |
| (6) Family boarding home or foster care home | 5.00 |
| (7) Group care home | 10.00 |
| (8) Any child-caring institution or child-placing agency | 10.00 |

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(9) Maternity home	10.00
(10) Runaway shelter	10.00
(11) Emergency shelter	10.00
(12) Child abuse agency	10.00
(13) Prescribed child care center	25.00
(14) Detention center	25.00
(15) Temporary holding resource	10.00

AND FURTHER AMEND by deleting Section 176 (f)(2) and substituting instead the following language:

(2) Pre-school or school age programs subject to regulation by other departments of state government;

AND FURTHER AMEND by deleting subsection (g) of Section 176 and by substituting instead the following language:

(g) Exempt programs under subsections (a) and (c) shall post a sign stating "This facility is not required to be licensed by the State of Tennessee as a child-caring agency."

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION____. Tennessee Code Annotated, Section 37-1-102(b)(8) is amended by deleting the word "or" which is after the word and punctuation "drug," and by adding after the word "homicide" the following punctuation and words ", or any other traffic offense classified as a felony".

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AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION____. Tennessee Preparatory School. (a) The Tennessee Preparatory School, a special school of the state board of education as set out in Tennessee Code Annotated, Title 49, Chapter 50, Part 10, shall be operated by the department of children's services on behalf of the state board of education.

(b) Notwithstanding any other provisions in this act or other acts creating the department of children's services, the transfer of the Tennessee Preparatory School from the jurisdiction of the state board of education to the jurisdiction of the department of children's services shall not, because of the transfer, result in any impairment, interruption or diminution of employee rights, privileges, salary, benefits, leave accumulation or employment. The commissioner of the department of children's services shall determine and remedy any impairment, interruption or diminution caused by the transfer.

(c) Initial placement at the Tennessee Preparatory School shall be limited to children who are at least twelve (12) years of age, but less than eighteen (18) years of age. The commissioner may make exception to the minimum age requirement for younger siblings of a child who has been placed at Tennessee Preparatory School.

(d) To be eligible for placement at the Tennessee Preparatory School, the commissioner or his or her designee shall find that a child in the department's custody is without support, abandoned, neglected or an orphan, or is without suitable home, proper guardianship, or is in danger of becoming delinquent because of dependency or neglect. Further, a child that has

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been adjudicated delinquent by virtue of committing an act that would be a misdemeanor criminal act if committed by an adult and is not otherwise appropriate for placement at a youth development center may also be eligible for placement at the Tennessee Preparatory School. Under no circumstances shall a child who has been adjudicated delinquent by virtue of committing an act that would be a felony if committed by an adult be eligible for placement at Tennessee Preparatory School.

(e) The Tennessee Preparatory School may seek to continue accreditation by the Southern Association of Colleges and Schools.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Title 49 is amended by deleting the words "day care" or "day-care", in upper or lower case, wherever they appear, and by substituting instead the words "child care" in the appropriate upper or lower case.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Section 7(r) is amended by deleting the letter "(r)" and substituting instead the letter "(q)". Section 7 is further amended by appropriately redesignating the subsections following the newly designated subsection (q).

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

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SECTION _____. Review. The department shall be reviewed pursuant to the requirements set out in the "Tennessee Governmental Entity Review Law" set out in Tennessee Code Annotated, Title 4, Chapter 29, Parts 1 and 2. Further, the department shall respond to requests for information from any other legislative committees including, but not limited to, the joint fiscal review committee, the general welfare, health, and human resources committee of the senate, the health and human resources committee of the house of representatives, and the government operations committees of the senate and house of representatives, to insure that thorough review and oversight of the department is accomplished.

AND FURTHER AMEND by adding as a new section immediately preceding the last section and renumbering the subsequent section accordingly:

SECTION _____. Non-discrimination. No person shall on the grounds of race, color, national origin, sex, age, or ability to pay be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity operated by the department of children's services. This shall include, but not be limited to, contracts for services, employment, or services to consumers.

AND FURTHER AMEND by adding as a new section immediately preceding the last section and renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 4-29-219(I), is amended by adding a new item thereto, as follows:

- () Department of children's services, created by Section 2 of this act;

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AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 37-1-128(c), is amended by deleting the subsection in its entirety.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 37-1-164, is amended by deleting the section in its entirety.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated Section 37-3-108 is amended by deleting the words "youth development" and substituting instead the words "children's services".

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated Section 37-3-111, is amended by deleting the words "youth development" and by substituting instead the words "children's services".

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 49-50-1001(1), is amended by deleting the subsection in its entirety and by substituting instead the following language:

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(1)(A) Control the Tennessee Preparatory School, the Tennessee School for the Blind, the Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; to elect, on the recommendation of the commissioner, the president, superintendents, teachers, officers and other employees for such schools; to fix, on the recommendation of the commissioner, the salaries and terms of office of such officers and employees; and to prescribe curricula and other requirements for diplomas and degrees.

(B) For the purposes of this part, the following definitions apply:

(i) "Commissioner" means commissioner of education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; "commissioner" means commissioner of children's services in any reference to the Tennessee Preparatory School;

(ii) "Department" means department of education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; "department" means department of children's services in any reference to the Tennessee Preparatory School.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 49-50-1001(3), is amended by deleting the words and punctuation ", title 37, chapter 3,".

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

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SECTION _____. Tennessee Code Annotated, Title 49, Chapter 50, Part 11, is amended by deleting the words "commissioner of education" wherever they appear and by substituting instead the word "commissioner".

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 49-50-1102, is amended by adding the following language and punctuation as a new appropriately designated subsection:

() "Commissioner" means commissioner of education in any reference to the Tennessee School for the Blind, Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; "commissioner" means commissioner of children's services in any reference to the Tennessee Preparatory School;