

CHAPTER 91
FORMERLY
HOUSE BILL NO. 197

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE FAMILY COURT ADJUDICATED DRUG COURT PROGRAM.

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

Section 1. Amend § 1009, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1009. Adjudication; disposition following adjudication; commitment to custody of Department of Services for Children, Youth and Their Families; effect.

(c) Following an adjudication in which the Court declares that a child is delinquent, it may:

~~(16) Following an adjudication in which the Court declares that a child is delinquent and sentences the child to participate in the Family Court Adjudicated Drug Court Program, the Court may impose such conditions upon the parent, guardian or custodian of the person adjudicated as the Court deems necessary to assist the person adjudicated in receiving all the treatment, rehabilitation or care ordered by the Court as best serving the needs of the child and society under this section or, in the opinion of the Court, as will enhance the ability of such parent, guardian or custodian in providing the child with adequate support, guidance and supervision necessary to meet the child's physical, mental or emotional health and well being, provided that such parent, guardian or custodian has been previously served by summons in accordance with § 1006 of this title; [Repealed.]~~

(j)(1) For the purpose of this subsection, the following definitions shall apply:

a. "Adjudication" or "adjudicated" — for the purposes of this subsection (j), "adjudication" or "adjudicated" shall mean any type of adjudication of delinquency contained within the definition of "conviction" or "convicted" pursuant to Chapter 9 of Title 16, and shall include a probation before adjudication plea or admission, and a mental health ~~or drug court~~ deferred plea regardless of whether the plea or charge was subsequently discharged or dismissed under such programs.

Section 2. Amend § 1012, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1012. Family Court Adjudicated Drug Court Program.

~~(a) A child who has been referred to the Program by the Attorney General may qualify for the Family Court Adjudicated Drug Court Program.~~

~~(b) At the time of arraignment of any person qualifying under subsection (a) of this section for the Family Court Adjudicated Drug Court Program and who elects to apply under this section shall admit to the offense by entering a plea of delinquency. The Court shall order the child to participate in a substance abuse evaluation to be conducted by the Department of Services for Children, Youth and Their Families, and to comply with any treatment recommended by that agency, and any other sentencing conditions deemed appropriate.~~

~~(c) After the entry of a judgment of delinquency against a child participating in the Family Court Adjudicated Drug Court Program, a judge or commissioner shall vacate the judgment of delinquency and sentence pertaining thereto 6 months after the Court is satisfied that the child has completed the terms and obligations of the Family Court Adjudicated Drug Court Program and has complied with the conditions of probation imposed at the time of adjudication.~~

~~(d) Any child actively participating in the Family Court Adjudicated Drug Court Program as a result of a Family Court misdemeanor adjudication may motion the Court for permission to apply for a Level I Learner's Permit or driver's license under the following terms:~~

~~(1) That no driving privileges, prior driver's license and/or conditional driver's license have been otherwise revoked within the preceding 12 months;~~

~~(2) That at least 60 days or the length of time prior to licensure required by 23 U.S.C. § 159, whichever is longer, has elapsed since the beginning of the child's active participation in the Family Court Adjudicated Juvenile Drug Court Program and the child has completed at least 12 hours of treatment through the drug treatment provider;~~

~~(3) In the event that the Court grants the request, and if the child is otherwise qualified, the Division of Motor Vehicles shall grant the child a Level I Learner's Permit or reinstate the child's driving privileges as specified in the Court order; and~~

~~(4) Except for a Level I Learner's Permit, the Court may restrict the driving privileges granted under this section. These restrictions may include but are not limited to the right to drive to school, work or to the office of a treatment provider.~~

~~(5) Notwithstanding any provision of Title 21 or Title 4 to the contrary, the adjudication of delinquency in this Program shall not result in the revocation or suspension of a driving license or driving privileges, but the child shall be determined "not eligible" for licensing by the Court until the child obtains a Court order granting a motion submitted pursuant to this Section. [Repealed.]~~

Approved July 4, 2019