



SPONSOR: Rep. Bolden & Sen. Lockman
Reps. Chukwuocha, Cooke, Dorsey Walker, Heffernan,
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HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 75

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE YOUTH SERVICES
COMMISSION OF DELAWARE.

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

1 Section 1. Amend § 5108, of Title 31 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 5108 Power to discharge or release.

4 (a) Except as to a delinquent child committed for a mandatory period pursuant to § 1009(e) [repealed] of Title 10,
5 the Department may at its discretion discharge finally any juvenile committed to its custody if the Department shall
6 determine:

7 (1) Such discharge is in the best interests of the juvenile; and

8 (2) That the juvenile does not pose a probable threat to property or person; provided, that a certificate of
9 discharge, setting forth grounds establishing compliance with these conditions of release, shall be provided 10 calendar
10 days prior to the date of release to the Judge of Family Court who originally signed the commitment order, or, in such
11 judge's absence, to the Chief Judge of said Court.

12 (b) No person shall be retained in the legal custody of the Department beyond that person's 18th birthday;
13 provided, however, that any delinquent child who is 17 years of age or older but less than 18 years of age who has been
14 committed to the custody of the Department may remain in said custody for 1 full year; ~~provided further, that any~~
15 ~~delinquent child who is committed to the custody of the Department for a mandatory period pursuant to § 1009(e)~~
16 ~~[repealed] of Title 10 shall be transferred into or retained in the custody of a facility established pursuant to § 6526 of Title~~
17 ~~11 for youthful offenders upon reaching the age of 18 where the youthful offender shall remain until the completion of the~~
18 ~~mandatory period of custody;~~ provided further, that any child who is charged with an act of delinquency prior to reaching
19 18 years but becomes 18 years of age prior to disposition on the charge may be committed to the custody of the Department
20 until the child's nineteenth birthday.

21 (c) ~~No child committed to the custody of the Department under § 1009(e) [repealed] of Title 10 shall be released~~
22 ~~on pass or on extended leave for any purpose except in accordance with the procedure set forth in subsection (a) of this~~

23 ~~section. Upon receipt of notification that the Department intends to extend such privileges to a child so committed, the~~
24 ~~Court may deny, or may impose such reasonable terms and conditions as it deems necessary, upon said temporary release.~~

25 (c) A person who has been charged and detained as an adult in Superior Court or a person who has been convicted
26 and sentenced in Superior Court to a period of incarceration beyond their 18th birthday shall remain in the legal custody of
27 the department until their 18th birthday, upon which time they shall be transferred to the legal custody of the Department of
28 Corrections for the remainder of the sentence; however, the Department of Services for Children, Youth and Their Families
29 may provide services for non-incarcerated individuals when jurisdiction has been retained by the Family Court.

30 Section 2. This Act shall take effect on January 1, 2021.

SYNOPSIS

This Act clarifies that the Department of Services for Children, Youth and Their Families (DSCYF) continues to have exclusive jurisdiction over a juvenile's care, custody, and control when a juvenile is found delinquent of an offense in Family Court and is sentenced to a term of confinement that shall not exceed one year beyond their 18th birthday. This Act stipulates that juveniles found guilty and sentenced to a Superior Court offense shall remain in the custody, care, and control of DSCYF until they turn 18. Youth with Superior Court adjudications and terms of confinement which extend beyond their 18th birthday shall be transferred to the custody of the Department of Correction for the remainder of their sentence at 18. This Act also clarifies that Family Court is permitted to retain jurisdiction in some cases involving youth aged 18- 21 and Family Court may require DSCYF to provide services and supervision for non-incarcerated persons. Should Level V confinement be imposed in cases where Family Court has extended jurisdiction for youth over 18 and under 21, the Department of Correction (DOC) shall have exclusive responsibility for the person's care, custody, and control when the period of the confinement commences after the youth has reached the age of majority.