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THE YOUTH AUTHORITY ACT

By JAMES W. HUGHES*

The American Law Institute in 1940 proposed a program for the reorganization of state correctional systems for youthful offenders. This followed a two year study of the problem by a committee of the Institute working in consultation with one hundred and fifty representatives of the social sciences and the professions concerned with correctional administration. There had been a growing realization that the correctional systems of the states were unsuccessful, that many of those who experienced their programs continued to violate the law, that there was excessive emphasis on custodial institutions, and that current knowledge and skills developed by the behavioral sciences were not being applied sufficiently. Furthermore, existing programs were found to be composed largely of many autonomous agencies and institutions, operating in a disconnected and uncoordinated manner. As a corrective to this situation the Institute proposed a reorganization of state correctional systems on the basis of a model act drawn up by its committee.¹ This proposal subsequently has become the pattern, with modifications, for legislation in California, Minnesota, Wisconsin, Massachusetts, and Texas. Many of its provisions have also been incorporated in recent federal legislation concerned with juvenile delinquency. After a two year study by an advisory committee of citizens, the 1952 session of the Kentucky legislature adopted a similar program in the Youth Authority Act.²

The Act reflects changes in attitude toward the delinquent. Previous legislation had emphasized institutional detention of those who became juvenile delinquents "by reason of vicious conduct or moral depravity",³ while this Act directs attention "to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community." The term

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¹ American Law Institute, *Youth Correction Authority Act* (1940).

² LEGISLATIVE ACTS OF KENTUCKY, c. 161 (1952).

³ KY. REV. STAT. 198.040.

“child” refers to anyone who has not reached his eighteenth birthday, thus removing from the juvenile court the jurisdiction it formerly held over eighteen year old females. The child comes within the jurisdiction of the juvenile court if he has violated any federal, state, or municipal law, is neglected as to proper support, education, or care, is beyond the control of responsible adults, or is living so as to injure his welfare or that of others.

The existing jurisdiction of the county court remains virtually unchanged. The changes introduced are for the purpose of supplementing the facilities of the county or providing additional alternatives in disposition. If the court prefers not to release a child to his parents nor place him in permanent detention facilities, the Kentucky Children’s Bureau will assist in finding and supervising a suitable family or private home for detention. The Bureau is authorized to provide funds for the development of detention facilities. Before disposition an investigation is to be made of the life and character of each child. Investigative services may be furnished by the Bureau on contract with the county, or the investigation may be made by volunteer or salaried probation officers of the Juvenile court or by a suitable public or private agency. If mental illness or defect is found on examination, subsequent procedures follow the law governing inquests concerning sanity. If a problem of physical health is found, the court may arrange for free private or institutional treatment of the child. When a felony has been committed by a child of sixteen or over, or when any child is charged with murder or rape, the case may be transferred to the circuit court for trial. In any public offense the court may order probation or placement in a home or institution selected and supervised by the field staff of the Children’s Bureau. Thus the Act expands the facilities of the juvenile court by providing for several forms of assistance by the Kentucky Children’s Bureau.

Assistance to the juvenile court is further provided in the authorization of an advisory board. The General Assembly recommends, as a matter of public policy, that each county judge appoint and utilize such a board. It is to be composed of six to ten “reputable inhabitants”, serving without compensation for an indeterminate term. They are to make annual inspections of all institutions, family and boarding homes receiving children under

the Act, advise the judge on the workings of the Act, and recommend measures for carrying out its provisions.

The most striking innovation inaugurated by the new statute is the establishment of a new alternative in the disposition of juveniles—commitment to the Youth Authority. This is a new agency created as an administrative division within the Children's Bureau as part of the reorganization of the Department of Welfare. The Authority is to consist of a director, a governing board, probation officers, institutional staffs, and other necessary personnel. The director is to be appointed by the Commissioner of Welfare, with the approval of the Governor, to serve at his pleasure, and selected on the basis of professional training, experience, and demonstrated ability in the field of youth guidance and the treatment and rehabilitation of children committed to public care and custody. He will be responsible for the administration of the new agency, serve as secretary of its board, and appoint administrative personnel with its approval. The board, in addition to the Commissioner serving *ex-officio*, will consist of five members appointed by the Governor to four year staggered terms from among persons with professional qualifications in social science, psychology, medicine, law, education, and religion. They receive no compensation but are allowed a per diem of twenty-five dollars and the necessary expenses incurred while engaging in official business. The board selects its own chairman annually.

It is the responsibility of the governing board to determine the policy of the Authority, review its operations, and annually review the case of each child committed to the Authority. It also will operate, manage, and develop the existing custodial institutions, the Houses of Reform and the Kentucky Children's Home, and any additional facilities such as forestry camps, farms, and vocational training. The board also will arrange a program of classification, segregation, and specialized treatment and provide a co-ordinated system of probation and parole.

As an alternative to the existing methods of disposition, a child may now also be committed to the Youth Authority for an indeterminate period not to exceed the age of twenty-one, at the discretion of the court. The Youth Authority may receive a child into its custody by any one of the following methods: (1) The juvenile court may commit a child if it finds that a public offense

has been committed, or in the case of a non-offender, if the Youth Authority has the proper facilities available and is willing to accept the child. (2) When the case of a child who committed a felony when sixteen years of age or over, or of any child who committed murder or rape, has been transferred from the juvenile to the circuit court, commitment to the Authority may be used as an alternative to other procedures at three stages of the proceedings, always at the discretion of the judge. The grand jury, instead of an indictment, may return a recommendation of commitment to the Youth Authority. If the case goes to trial, the proceedings may be halted at any point on the request of the child or his parent or guardian and the judge may order commitment. If a conviction of either a felony or a misdemeanor is obtained and the child is under twenty, the judge may commit to the Youth Authority. (3) The Commissioner of Welfare may transfer to the Authority a felon under sixteen who is now in the state reformatory or penitentiary. (4) A child previously committed to the House of Reform or to the Kentucky Children's Home is now deemed to have been committed to the Youth Authority. (5) A child who has violated the conditions of parole may be returned to the custody of the Authority.

An important feature of the youth authority type of organization is the diagnosis of each case immediately following commitment. Consequently, the Youth Authority is authorized to establish and operate a reception center for the observation, study, and classification of children committed, and to provide this center with psychiatric, psychological, social service, and medical facilities. Further disposition is made on the basis of this study in the reception center. No specified period of time is allotted to this procedure, but in the existing youth authority systems it takes from three to eight weeks. When the child leaves the reception center, any one of the following dispositions may be made: (1) Discharge, unless he was sentenced beyond the age of twenty-one on a felony conviction (2) Parole to parents, foster home, family home, or boarding home, subject to the supervision of a parole officer of the Youth Authority or of a worker from the Division of Child Welfare (3) Placement in one of the Youth Authority institutions (4) Placement in a public or private child caring institution (5) Discharge to the Training Home or to a mental

hospital if recommended in a sanity inquest (6) Return to the circuit court for appropriate proceedings if he is a felon judged incapable of benefiting from treatment in any Youth Authority facility.

In its institutional facilities the Authority is to operate a program aimed at rehabilitating and training the children so that they may become more useful members of society. This program will include vocational education and training, a common school education, and medical, psychiatric, and social service facilities. Throughout the term of commitment any disposition made except discharge or return to the court may be changed at any time on the basis of further study of the child and the periodic review of each case which the law requires. The Authority will provide supplemental or special educational programs for children requiring segregation, restraint, or specialized treatment, a program in which the Department of Education will assist and cooperate to the extent of its available facilities.

The program established by this Act is not a radical departure from the existing system. Similar youth authority programs have been operated successfully for several years in other states. The principal features of the Authority are statewide coordination of existing programs, administrative centralization in a single agency, and expansion of the methods of individualized treatment. Except for the reception center, the functions authorized are already carried on, although to a limited degree, in the Kentucky correctional system. Diagnosis, classification, segregation, specialized institutions, professional consultants, case investigation, and advisory boards are all used within the present framework.

To a large degree, the success of the Authority will be determined by how well and how extensively the program is used by the county judges, since most of the procedures authorized will be used only at their discretion. The Act separates the commitment and treatment procedures, ending the control over the offender by the judge at the point of commitment. The choice of the specific method of treatment used and the determination of the duration of control over the offender are the responsibilities of the Authority. The effectiveness of the new program is therefore partially dependent on the attitudes of the county judges and their willingness to relinquish some of their control of the child.

If the program is accepted by the courts, the inevitable problem of financial support arises. Without adequate appropriations, there will remain only the existing system with a more elaborate administrative organization superimposed. Making the Authority program successful will require a considerable expenditure of funds to obtain trained and qualified personnel from the variety of professions needed in the treatment process, a more diversified system of institutional facilities, and greatly expanded probation and parole services to aid in the readjustment of the child to his community after release. The task of interpreting this new form of correctional treatment to citizens habituated to the outmoded current program is crucial. This function and the future evaluation of the new program would have been greatly aided if provision had been made for statistical and research services, found essential in the authority programs of other states, by means of which interpretation, treatment, release, and measurement of success could be based on established facts. This deficiency, however, could be remedied by administrative action.

The administrative organization of the Youth Authority and the Children's Bureau began, as authorized, on July 1, 1952. The Governor has appointed the governing board of the Authority and many county courts have appointed advisory boards. A site for the reception center has been selected at Lyndon and construction has begun, using the \$95,000 appropriated for this purpose during the next biennium. Another action of the 1952 Legislature was to authorize a construction program at the Houses of Reform. The remainder of the Youth Authority Act becomes operative January 1, 1953.