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SOCIAL SERVICES

Juvenile Justice Services: Create Administrative Agency

CODE SECTIONS: O.C.G.A. §§ 49-5-130—49-5-135 (new), 49-5-150—49-5-155 (new)
BILL NUMBER: SB 162
ACT NUMBER: 798
SUMMARY: The Act provides for the creation of the Juvenile Justice Coordinating Council to create standards, to administer and coordinate juvenile services and funds, and to develop, through community initiative, community based programs for delinquent youths.
EFFECTIVE DATE: July 1, 1987

History

The creation of a coordinating council to administer juvenile justice services in Georgia and assist in the development of community based alternatives to juvenile detention was first introduced in the 1986 General Assembly in the form of SB 546. This bill was introduced late in the session and failed to emerge from the Senate Children and Youth Committee in time for enactment. The bill would have assigned the duties and the authority of the proposed coordinating council to the Commissioner of the Department of Human Resources.¹

SB 162

Senator Nathan Deal reintroduced SB 546 in the 1987 General Assembly on January 28, 1987, as SB 162. Senator Deal was assisted and supported in this effort by the Georgia Alliance for Children, an advocacy group for troubled youth.² The major purpose of SB 162, like that of its

1. SB 546, 1986 Ga. Gen. Assem.

2. Telephone interview with Richard McDevitt, President, Georgia Alliance for Children, Inc. (May 15, 1987) [hereinafter McDevitt Interview]. Alliance for Children is a child advocacy group supported by individual, corporate, and philanthropic contributions. Mr. McDevitt states that SB 162 was the culmination of three years of work toward this goal and reflects the needs identified in two studies that revealed which funds for juveniles could be used more effectively. The studies are: GEORGIA COMMISSION ON JUVENILE JUSTICE, STRENGTHENING JUVENILE JUSTICE IN GEORGIA (Feb. 1985); FULTON COUNTY/ATLANTA COMMISSION ON JUVENILE JUSTICE, STRENGTHENING JUVENILE

predecessor, is to prevent and reduce unnecessary incarceration of non-public risk youths and to create a statutory method for funding local diversion programs and provide these programs with state assistance.³ The statute also consolidates state and federal funds and centralizes the planning of juvenile justice programs into one staffed agency.

While SB 546 would have assigned the Commissioner of the Department of Human Resources to carry out its proposals, SB 162, in its original form, substituted the Council of Juvenile Court Judges for this task. Seeking a more appropriate agency and one capable of dealing with the possible conflicts of interest that might arise,⁴ the Senate committee substitute proposed the creation of a new entity, the Juvenile Justice Coordinating Council, which would be assigned to the Governor's Office of Planning and Budget for administrative purposes and would "operate in conjunction with and in cooperation with the operations of the Criminal Justice Coordinating Council."⁵ This placement affords the advantage of high visibility both administratively and legislatively.⁶

Though the basic concept of community based juvenile services and a centralized delivery system drew little opposition, the technical means of accomplishing this goal did. Opposition by the Department of Community Affairs, which previously administered funding for juvenile programs, was seen by supporters of SB 162 as a battle for "guarded territory" but was vocalized by the Department as a genuine concern for the possible loss of federal funding for existing programs as well as suspension of future funding.⁷ The opponents to the enactment of SB 162 pointed out that a gap in time would exist between the bill's effective date of July 1, 1987, when the authority to accept federal funds would be removed from the Department of Community Affairs, to the effective date of appointments to the new Council, October 1, 1987. During this period, no department in the state would be authorized to administer or receive these funds. Supporters of the bill accepted this gap as an oversight, but did not see it as placing federal grants in jeopardy.⁸ To remedy this situation, the Governor issued an executive order that provided for this transition period.⁹

In addition to the designation of a new Juvenile Justice Coordinating

JUSTICE IN FULTON COUNTY/ATLANTA (May 1986) (copies on file at Georgia State University Law Review office).

3. Telephone interview with Senator Nathan Deal, Senate District No. 49 (May 22, 1987) [hereinafter Deal Interview].

4. *Id.*

5. SB 162 (SCS), 1987 Ga. Gen. Assem.

6. Interview with Bette Rosenzweig, Department of Community Affairs, in Atlanta (Apr. 28, 1987).

7. *Id.*

8. Deal Interview, *supra* note 3.

9. Telephone interview with Douglas C. Bell, Jr., Criminal Justice Coordinating Council (May 22, 1987).

Council, other changes were made to the original version of SB 162. The original draft provided for the formation of a twelve member council to be appointed as follows: two members by the Governor, four by the General Assembly, two by the Speaker of the House, and two by the President of the Senate. These persons were to be citizens and parents with knowledge of "juvenile delinquency, its prevention, and community-based services."¹⁰ Two appointments each were to be made by the Commissioner of the Department of Human Resources, the Director of Administrative Office of the Courts, and the State School Superintendent. All appointments were for a term of two years to begin on September 1, 1987. The composition of the Council was expanded by the Senate committee substitute to twenty members who attain membership in different ways. The Chairman of the Council of Juvenile Court Judges, the Chief Justice of the Supreme Court of Georgia, the Chairman of the Prosecuting Attorney's Council, and the Director of the Division of Youth Services are permanent members by virtue of their offices. The Lieutenant Governor makes one appointment as does the Speaker of the House; and the Chief Justice of the Georgia Supreme Court makes two. Those making the appointments are allowed to fix the terms of their appointees. The Governor is allowed twelve appointments for staggered terms: four for four years, four for three years, and four for two years. No appointee is required to be a parent. Three of the Governor's appointees are to be juveniles under the jurisdiction of the juvenile justice system. The size and make-up of the Council was increased from twelve to twenty to comply with federal requirements that certain groups be represented.¹¹ The effective date of appointments was extended to October 1 to provide additional time for organization.¹²

As the close of the 1987 session of the General Assembly neared, it appeared that SB 162 would share the fate of its predecessor, SB 546, and expire in committee. However, once passed out of committee, SB 162 passed both houses unanimously. SB 162 faced the possibility of demise once again, this time by the Governor's veto. The Governor was urged by those with concerns about the bill in its present form to veto SB 162 and accomplish its purpose through an executive order. Though it appeared that this might be done, the Governor signed the bill on the last available day. Because he had campaigned on this issue, it was considered in the Governor's best interest to accept the legislation.¹³ Technical problems with the bill may need to be addressed in the 1988 General Assembly.¹⁴

While community based programs for juveniles are being successfully

10. SB 162, as introduced, 1987 Ga. Gen. Assem.

11. Deal Interview, *supra* note 3.

12. *Id.*

13. Telephone interview with Douglas C. Bell, Jr., Criminal Justice Coordinating Council (May 15, 1987).

14. *Id.*

used in some other states, Georgia's legislative approach to accomplish this is unique.¹⁵ SB 162 may indeed be a model act and a pioneering step for operating community based programs rather than institutionalization for delinquent juveniles.¹⁶

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15. Deal Interview, *supra* note 3.

16. *Id.*; McDevitt Interview, *supra* note 2. See also Marshall, *Building a Juvenile Justice System for Georgia's Future*, in HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, REINVESTING YOUTH CORRECTIONS RESOURCES: A TALE OF THREE STATES (file on copy at Georgia State University Law Review office). Chief Justice Marshall, Georgia Supreme Court, concludes that incarceration of youth offenders is too often the disposition; that "Georgia needs a visible, central, state-wide body for juvenile justice policy"; that greater community involvement must be developed; that alternative programs for handling offenders must be developed; that Georgia should establish full-time juvenile court judgeships; and that continuing education for juvenile justice practitioners should be mandatory. *Id.* at 45-47.