



STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 5

AN ORDER TRANSFERRING THE FUNCTIONS OF CASE MANAGEMENT RELATED TO AND CONCERNING CHILDREN IN THE LEGAL CUSTODY OF THE DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION UNDER T.C.A. SECTION 33-3-203 FROM THE DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION TO THE DEPARTMENT OF HEALTH

WHEREAS, it has been determined that it would be in the interest of a more efficient and effective state service to coordinate the services provided to children in state custody or at risk of entering state custody in a department that has service delivery responsibility; and

WHEREAS, the Office of Children's Services Administration was established as a Division of the Department of Finance Administration to oversee coordinated, efficient and effective services to children in state custody, at risk of entering state custody, reunified with families upon release from custody or identified as having a need for prevention services from the state; and

WHEREAS, the functions of the Office of Children's Services Administration were transferred from the Department of Finance and Administration to the Department of Health, effective August 1, 1995, by Executive Order No. 4 to facilitate the operation of governmental programs; and

WHEREAS, the Office of Children's Services Administration is now Children's Services; and

WHEREAS, the Tennessee Children's Plan was established on June 29, 1994 by Executive Order No. 58; and

WHEREAS, certain mentally ill children are committed to the legal custody of the Department of Mental Health and Mental Retardation pursuant to T.C.A. Section 33-3-203 and the Department of Mental Health and Mental Retardation is responsible for providing the necessary care, training or treatment for those children; and

WHEREAS, in order to comply with its duties and responsibilities under T.C.A. Section 33-3-203, the Department of Mental Health and Mental Retardation provides case management for the children in its legal custody under this law; and

WHEREAS, transferring the functions of case management related to and concerning children in the legal custody of the Department of Mental Health and Mental Retardation under T.C.A. Section 33-3-203 from the Department of Mental Health and Mental Retardation to the Department of Health would ensure a more efficient and effective coordination of children's services; and

WHEREAS, the Department of Finance and Administration was created and established in Tennessee Code Annotated, Section 4-3-1001; the Department of Health was created and established in Tennessee Code Annotated, Section 4-3-1801; and the Department of Mental Health and Mental Retardation was created and established in Tennessee Code Annotated, Section 4-3-1601.

NOW THEREFORE, I, Don Sundquist, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Section 4-4-102, do hereby direct the following:

1. That the functions of case management related to and concerning children in the legal custody of the Department of Mental Health and Mental Retardation under T.C.A. Section 33-3-203 shall be transferred from the Department of Mental Health and Mental Retardation to the Department of Health effective November 9, 1995.
2. That the Commissioner of Health shall perform all the duties and have the same authority and responsibility with regard to the employees and functions transferred by this Executive Order as the Commissioner has with other employees and functions of the Department of Health. Said Commissioner shall perform all duties related to, and have responsibility for, the employees and functions transferred and the administration of all statutory functions transferred under the provisions of this Executive Order, as well as any rules, regulations, policies and orders developed thereunder.
3. That the funding for those positions carrying out the functions transferred by this Executive Order shall also be transferred to the Department of Health.
4. That any equipment or office space necessary to carry out the functions transferred by this Executive Order shall be provided by Children's Services in the Department of Health. In addition, all personal property, equipment and other materials available and necessary to the functions transferred by this Executive Order currently in the Department of Mental Health and Mental Retardation shall be transferred to the custody and control of the Department of Health.
5. That based upon an implementation plan developed by the Commissioner of the Department of Health, said Commissioner with the assistance and approval of the Department of Personnel shall cause to be transferred to the Department of Health any filled or unfilled, authorized and funded positions assigned, directly or indirectly, to the functions transferred by this Executive Order. The Commissioner of Health shall, on or before November 9, 1995, begin the process of transferring the aforesaid positions and employees and shall complete the process in due time.
6. In accordance with the schedule for transferring positions and employees, the 1995-6 fiscal year appropriations to the Department of Mental Health and Mental Retardation for the administration of those functions transferred under the provisions of this Executive Order and the rules, regulations, orders and policies effectuated thereunder shall be transferred to the Department of Health, and the Department of Finance and Administration shall revise the present work programs, as well as future budgets, of the Departments affected to reflect the effect of this Executive Order.
7. That on or after November 9, 1995, the Department of Health, through its Commissioner, shall have the authority to receive, administer and supervise any and all grants and funds from whatever sources, including but not limited to the federal, state, county and municipal governments, with respect to the functions transferred by this Executive Order.

8. That all contracts or leases entered into prior to November 9, 1995 by the Department of Mental Health and Mental Retardation with respect to the functions transferred herein with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on November 9, 1995, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Health unless and until such contracts or leases are amended or modified by the parties thereto.

9. That all current rules, regulations, orders, decisions and policies heretofore issued or promulgated by the Department of Mental Health and Mental Retardation pursuant to the provisions of those statutes whose functions have been transferred under the provisions of this Executive Order shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Health. To this end, the Department of Health, through its Commissioner, shall have authority consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as many be necessary for the administration of the programs or functions herein transferred.

10. That it is my intent to transfer all statutory and related functions of case management related to and concerning children in the legal custody of the Department of Mental Health and Mental Retardation pursuant to T.C.A. Section 33-3-203 from the Department of Mental Health and Mental Retardation to the Department of Health. It is not my intent to transfer, attempt to transfer or otherwise interfere with the Department of Mental Health and Mental Retardation's legal custody over children committed to the Department of Mental Health and Mental Retardation pursuant to T.C.A. Section 33-3-203. It is solely my intent to transfer the functions of case management as stated in this Executive Order.

11. That this Order supersedes all other Executive Orders on the same subject to the extent that those Orders are inconsistent with this Order.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 9th day of November, 1995.


GOVERNOR

ATTEST:


SECRETARY OF STATE

