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**No. 06 An order transferring the Division of Juvenile Probation and its functions from the Department of Youth Development to the Department of Health and transferring certain functions of the Department of Human Services relative to the provision of child welfare services from the Department of Human Services to the Department of Health**

Don Sundquist

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STATE OF TENNESSEE

# EXECUTIVE ORDER

BY THE GOVERNOR

No. 6

**AN ORDER TRANSFERRING THE DIVISION OF JUVENILE PROBATION AND ITS FUNCTIONS FROM THE DEPARTMENT OF YOUTH DEVELOPMENT TO THE DEPARTMENT OF HEALTH AND TRANSFERRING CERTAIN FUNCTIONS OF THE DEPARTMENT OF HUMAN SERVICES RELATIVE TO THE PROVISION OF CHILD WELFARE SERVICES FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF HEALTH**

**WHEREAS**, it has been determined that it would be in the interest of a more economical, 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 Tennessee Children's Plan was established on June 29, 1994 by Executive Order No. 58; and

**WHEREAS**, the Office of Children's Services Administration was established as a Division of the Department of Finance and Administration to oversee the provision of 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 functions of case management related to and concerning children in the legal custody of the Department of Mental Health and Mental Retardation under Tennessee Code Annotated, Section 33-3-203 were transferred from the Department of Mental Health and Mental Retardation to the Department of Health effective November 9, 1995, by Executive Order No. 5 to ensure a more efficient and effective coordination of children's services; and

**WHEREAS**, the transfer of the Division of Juvenile Probation and its functions from the Department of Youth Development to the Department of Health will ensure a more efficient and effective coordination of children's services; and

**WHEREAS**, the transfer of certain functions of the Department of Human Services related to and concerning the provision of child welfare services from the Department of Human Services to the Department of Health will ensure a more efficient and effective coordination of children's services; and

**WHEREAS**, the Department of Health was created and established in Tennessee Code Annotated, Section 4-3-1801; the Department of Youth Development was created and established in Tennessee Code Annotated, Section 4-3-2601; and the Department of Human Services was created and established in Tennessee Code Annotated, Section 4-3-1201.

**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, Sections 4-4-102 and 4-4-117, do hereby direct the following:

1. That the Division of Juvenile Probation in the Department of Youth Development and its functions under Tennessee Code Annotated, Sections 37-3-201 - 37-3-208 shall be transferred from the Department of Youth Development to the Department of Health effective January 12, 1996.
2. That the functions, duties and responsibilities of the Department of Human Services under Tennessee Code Annotated, Sections 34-11-102; 34-11-103; 34-12-106; 36-1-101 - 36-1-141; 36-1-201 - 36-1-206; 36-2-209; 36-6-301; 37-1-113; 37-1-128 - 37-1-130; 37-1-150; 37-1-159; 37-1-164; 37-1-166; 37-1-401 - 37-1-414; 37-1-601 - 37-1-616; 37-2-401 - 37-2-412; 37-2-501 - 37-2-507; 37-3-108; 37-3-501; 37-3-505; 37-3-601 - 37-3-605; 37-4-201 - 37-4-207; 37-10-301 - 37-10-307; 38-6-109; 38-6-110; 39-13-701 - 39-13-709; 39-15-207; 49-1-508; 49-2-115; 49-6-1304; 68-1-1202; 71-1-116; and 71-1-124 shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.
3. That the functions, duties and responsibilities of the Department of Human Services relative to the provision of services to children under Tennessee Code Annotated, Sections 33-5-101; 33-6-101; and 33-6-104 shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.
4. That the functions, duties and responsibilities of the Department of Human Services relative to the development of a post-plea treatment system for sex offenders, victims and their families under Tennessee Code Annotated, Section 33-6-306, in cases in which children are the victims of the sex offense, shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.
5. That any of the functions, duties and responsibilities of the Department of Human Services relative to the provision of child welfare services now provided by the Department of Human Services under Tennessee Code Annotated, Section 37-3-521, that are not associated with or related to the AFDC, Food Stamps and Medicaid programs administered by the Department of Human Services pursuant to Tennessee Code Annotated, Sections 71-3-101 - 71-3-130; 71-5-301 - 71-5-314; and 71-5-101 - 71-5-186, shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.
6. That the functions, duties and responsibilities of the Department of Human Services under Tennessee Code Annotated, Sections 68-1-1403(4); 68-11-210; 68-11-1002; 71-1-105(2), (7), (15) and (16); 71-1-110; 71-1-119; 71-1-123; 71-1-129; 71-3-401 - 71-3-406; and 71-3-701 - 71-3-702 relative to the provision of child welfare services shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.
7. That the functions, duties and responsibilities of the Department of Human Services related to the expunction of records under Tennessee Code Annotated, Section 40-32-101, in cases involving investigations of child abuse or neglect or other functions transferred by this Executive Order, shall be transferred to the Department of Health effective January 12, 1996.

8. That the functions, duties and responsibilities of the Department of Human Services under Tennessee Code Annotated, Section 71-1-105 relative to the licensing of child abuse agencies, child-caring institutions, child-placing agencies, family boarding homes, group care homes and maternity homes as defined under Tennessee Code Annotated, Section 71-3-501(b)(1), (2), (3), (6), (8) and (10); the responsibilities for criminal background review pursuant to Tennessee Code Annotated, Section 71-3-529 for child abuse agencies, child-caring institutions, child-placing agencies, family boarding homes, group care homes and maternity homes as defined under Tennessee Code Annotated, Section 71-3-501(b)(1), (2), (3), (6), (8) and (10); the supervision of the care of dependent and neglected children in foster family homes and institutions; and the placement of children for adoption and the supervision of adoptive placements shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.

9. That the functions, duties and responsibilities of the Department of Human Services under Tennessee Code Annotated, Section 71-3-530 relative to the provision of child welfare services through the investigation of cases involving reports of child abuse or neglect under Tennessee Code Annotated, Sections 37-1-403 and 37-1-605 shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996. In cases involving investigations conducted pursuant to reports made under Tennessee Code Annotated, Sections 37-1-403 and 37-1-605 in which the person or agency that is the subject of the investigation is not licensed either by the Department of Health under Tennessee Code Annotated, Section 71-3-501(b)(1), (2), (3), (6), (8) or (10) or by the Department of Human Services under Tennessee Code Annotated, Section 71-3-501(b)(4), (7), (9) or (11), the functions, duties and responsibilities of the Department of Human Services that involve the filing of any legal actions under Tennessee Code Annotated, Section 71-3-530(2), seeking injunctive relief to protect children from abuse or neglect by such person or agency, shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996.

10. That the functions, duties and responsibilities of the Department of Human Services under Tennessee Code Annotated, Sections 68-142-101 - 68-142-109 shall be transferred from the Department of Human Services to the Department of Health effective January 12, 1996; provided however, that the designation of the Department of Human Services as a member of the Tennessee child fatality prevention team under Tennessee Code Annotated, Section 68-142-103(3) shall be transferred to Children's Services within the Department of Health effective January 12, 1996.

11. That from and after January 12, 1996 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.

12. 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 January 12, 1996, begin the process of transferring the aforesaid functions, positions and employees and shall complete the process in due time. The Departments of Human Services and Youth Development, under the guidance and direction of the Commissioner of the Department of

Health, shall assist the Department of Health in the development and execution of the implementation plan, in any manner necessary to ensure that the functions, duties and responsibilities transferred in this Executive Order are transferred in a manner that avoids any lapse in services or any reduction in funding from whatever source and in any other manner necessary to accomplish the directives of this Executive Order.

13. In accordance with the schedule for transferring positions and employees, the 1995-6 fiscal year appropriations to the Department of Youth Development and the Department of Human Services 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.

14. That all personal property, equipment and other materials available and necessary to the functions transferred by this Executive Order now in the Department of Youth Development or the Department of Human Services shall be transferred to the custody and control of the Department of Health.

15. That on or after January 12, 1996, 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.

16. That all contracts or leases entered into prior to January 12, 1996 by the Department of Youth Development or the Department of Human Services 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 January 12, 1996 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.

17. That all current rules, regulations, orders, decisions and policies heretofore issued or promulgated by the Department of Youth Development and the Department of Human Services 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 may be necessary for the administration of the programs or functions herein transferred.

18. That it is my intent to transfer all statutory and related functions as set forth in this Executive Order to the Department of Health that may be necessary for implementation and continued administration of Children's Services.

19. 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 12th day of January, 1996.

  
GOVERNOR

ATTEST:

  
SECRETARY OF STATE

