

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control \_\_\_\_\_ Department or Agency Youth Services  
Rule No. 950-4-7 Rule Title: DYS Community Services Diversion Program  
\_\_\_\_\_ New X Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference \_\_\_\_\_

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

\*\*\*\*\*

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date 6-19-18

(DATE FILED)  
(STAMP)

APA-2

Alabama Department of Youth Services

NOTICE OF INTENDED ACTION

AGENCY NAME: Youth Services

RULE NO. & TITLE: 950-4-7 DYS Community Services Diversion Program

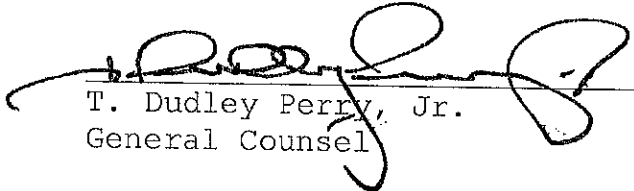
INTENDED ACTION: The Alabama Department of Youth Services proposes to amend Rule 950-4-7 of the Administrative Code.

SUBSTANCE OF PROPOSED ACTION: The Department proposes to amend Rule 950-4-7 to reflect current statutory authority, to clarify the process for community diversion grants, and to bring the administrative code in line with current practices and procedures of the Department. The Department also proposes to amend the rule to correct typographical errors and omissions.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing to ADYS Legal Division, P.O. Box 66, Mt. Meigs, AL 36057 or orally at the ADYS Board Room on August 8, 2018 at 10:00 am at 1000 Industrial School Rd., Mt. Meigs, AL 36057.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 8, 2018

CONTACT PERSON AT AGENCY: T. Dudley Perry, Jr. (334) 215-3803

  
T. Dudley Perry, Jr.  
General Counsel

**CHAPTER 950-4-7 DYS COMMUNITY SERVICES SUBSIDY DIVERSION  
PLAN PROGRAM**

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**950-4-7-.01 Introduction.**

(1) ~~This is a revision of the Department of Youth Services Community Services Subsidy Diversion Guidelines. These revisions guidelines of the Department of Youth Services Community Services Division were developed by departmental staff and approved by the Youth Services Board on March 22, 1985, as the "Community Subsidy Plan". They were and modified revised July 15, 1985 June 23, 2018. These guidelines were revised with recommendations from Department of Youth Services licensed facility directors. On July , 2018 with recommendations from Department of Youth Services staff they were revised and renamed "Community Services Diversion Program". and by staff.~~

(2) The Department of Youth Services is committed to the concept of effective rehabilitation of delinquent youth and children in need of supervision through the development and utilization of community based and community operated programs and facilities.

(3) The Department recognizes the need for financial assistance to community based ~~facilities programs~~ to bring about well planned, coordinated and cooperative ~~local county~~-state efforts to ~~increase and improve troubled youth~~ improve outcomes for youth.

(4) These guidelines for the community ~~subsidy diversion~~ programs were developed to insure uniform opportunity for ~~all~~ all counties Department of Youth Services licensed facilities to apply for any available funds and to establish standard criteria

to be used to evaluate applications and to justify the allocations recommended for each applicant.

**Author:** ~~John Floyd, Administrator, Community and Regional Services~~ Patrick J. Pendergast, Deputy Director for Community Services.

**Statutory Authority:** Title 44, Code of Ala. 1975, § 44-1-24 (4). (7) (7), § 44-1-28.

**History:** Adopted June 29, 1984; filed July 10, 1984. Emergency Repeal adopted March 22, 1985; filed May 10, 1985; effective May 10, 1985. Emergency Adoption of New Rule (same title) in lieu thereof March 22, 1985; filed Supp. September 30, 1985, May 10, 1985; effective May 10, 1985. Permanent Repeal adopted July 15, 1985; filed July 15, 1985; effective August 19, 1985. Permanent Adoption of new rule in lieu thereof July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment Filed June 19, 2018 Effective

#### 950-4-7-.02 Glossary.

~~(1) "Acceptable Cost Limit" means licensed bed space, multiplied by the number of days, divided into the operational budget of a facility or program based upon the minimum requirement for licensure.~~

~~(2) "Assumption of Cost Schedule" means a financial schedule approved by the Department in which local financial support is increased over a specified period of time.~~

~~(3) "Balance Sheet" means a statement of financial condition which shows the assets and liabilities of a program and/or a facility.~~

~~(4) "Catchment Area" refers to that area served primarily by a facility and/or program because of financial or programmatic obligation.~~

~~(15) "Foster Care Payments" means financial assistance paid by the Department of Youth Services on an established per diem basis to a foster home or licensed facility for the purpose of providing care and training for delinquent youth and children in need of supervision.~~

~~(6) "Reserve Fund" refers to local operational funds left over at the end of the fiscal year.~~

~~(7) "Space Available" refers to unoccupied youth placements in a program or facility.~~

(28) "Subsidy Diversion Funds" means those state funds available through the Department of Youth Services to provide financial assistance to eligible Community Services Diversion Programs programs or facilities.

~~(9) "Utilization Rate" means actual number of child care days provided, divided by the possible number of child care days.~~

~~Author: John Floyd, Administrator, Community and Regional Services~~  
Patrick J. Pendergast, Deputy Director for Community Services.

**Statutory Authority:** Title 44, Code of Ala. 1975, § 44-1-24 (7), § 44-1-28.

**History:** Adopted June 29, 1984; filed July 10, 1984 entitled "Statutory Authority." Emergency Repeal adopted March 22, 1985; filed May 10, 1985; effective May 10, 1985. Emergency Adoption of New Rule entitled "Glossary" in lieu thereof March 22, 1985; filed May 10, 1985; effective May 10, 1985. Permanent Repeal adopted July 15, 1985; filed July 15, 1985; effective August 19, 1985. Permanent Adoption of new rule in lieu thereof July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment  
Filed June 19, 2018 Effective

950-4-7-.03 Statutory Authority.

The Department of Youth Services has the power and duty to:

Title 44, Code of Ala. 1975.

~~Author: Department of Youth Services~~  
Author: Department of Youth Services

~~Statutory Authority~~  
Statutory Authority

~~History: History: Repealed Filed June 20, 2018~~  
Effective:

(1) 44-1-24 (47) - "...subsidize foster care facilities or group homes for youths alleged to be delinquent following such hearing, including detention, examination, study, care, treatment, and training;"

(2) 44-1-24 (6) "Make and enforce all rules and regulations which are necessary and appropriate to the proper accomplishment of the duties and functions vested in the department by law with respect to youth services and which do not conflict with or exceed the provisions of law vesting the duties and functions in the department."

(3) 44-1-24 (7) "Enter into contracts with any other state or federal agency or with any private person, organization, or group capable of contracting, if the department finds the action to be in the public interest."

~~(2) 44-1-28 "The functions and facilities related to youth detention facilities, licensed by the Department of Youth Services of each county and counties, acting together may, upon the express written agreement of each county or such counties acting together and the department, receive funds from the department according to formulae for disbursement established by the department and in accordance with the terms of written agreement between each such county or such counties acting together and the department, relative to detention care. Any county or counties acting together shall retain control of such detention functions and detention facilities and shall continue to have financial responsibility for their operation, unless otherwise provided for by the department. All detention programs and facilities shall maintain standards prescribed by the department. All funds expended by the department will be contingent upon the recipients of said funds meeting the standards established by the department."~~

**Author:** Patrick J. Pendergast, Deputy Director for Community Services ~~John Floyd, Administrator, Community and Regional Services.~~

**Statutory Authority:** Title 44, Code of Ala. 1975. § 44-1-24 (7), § 44-1-24~~8~~.

**History:** Adopted June 29, 1984; filed July 10, 1984 entitled "Background." Emergency Repeal adopted March 22, 1985; filed May 10, 1985; effective May 10, 1985. Emergency Adoption of New Rule

entitled "Statutory Authority" in lieu thereof March 22, 1985; filed May 10, 1985; effective May 10, 1985. Permanent Repeal adopted July 15, 1985; filed July 15, 1985; effective August 19, 1985. Permanent Adoption of new rule in lieu thereof July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment  
Filed June 19, 2018 Effective

**950-4-7-.04 Background.** ~~As far back as 12 years ago,~~ Those drafting the Youth Services Act were concerned that the responsibility for developing and maintaining a comprehensive service and treatment system for delinquency programs should reflect a state-local partnership approach. This philosophy is woven through the law, suggesting a cooperative approach to deal with programs in a mutually supportive way, yet leaving local control and continued financial responsibility with the county/counties acting together as long as minimum standards are complied with as set by the state. (44-1-281)

In keeping with this philosophy, it is proposed that a community ~~subsidy~~ diversion program be implemented whereby any Department of Youth Services' licensed local program or facility, or a local program authorized and approved by the county, may apply to the Department of Youth Services for ~~subsidy~~ Diversion  ~~Funds~~ to assist in their overall operational costs.

~~To retain the local control and local ownership intended in the law, combined state and federal funds should not exceed 50 percent of overall operational costs. Federal funds to be considered are the block grant appropriations such as the Juvenile Justice and Delinquency Prevention and Social Services grants. USDA reimbursements or Educational units would be considered local money. Income from per diem or foster care payments may be counted as local money except when paid by the Department of Youth Services. A program may only receive either a subsidy, a grant, or foster care payments from the Department of Youth Services. Data indicates that outcomes for youth are improved when families and local resources are utilized.~~

The intent of the ~~subsidy~~ diversion program is therefore to assist in developing stable funding for community-based programs and to help establish them in the community as a viable and valuable community asset.

~~For those programs currently exceeding the 50 percent ceiling in combined state and federal funds, an assumption of cost schedule~~

~~shall be developed to allow a gradual phase in of local financial support that is reasonable to the counties and cities involved. For example, this could be done by increasing local support by five percent each year until the 50-50 status is reached.~~

**Author:** Patrick J. Pendergast, Deputy Director for Community Services. ~~John Floyd, Administrator, Regional and Community Services.~~

**Statutory Authority:** Title 44, Code of Ala. 1975. § 44-1-24 (7), § 44-1-28.

**History:** Adopted June 29, 1984; filed July 10, 1984 entitled "Purpose." Emergency Repeal adopted March 22, 1985; filed May 10, 1985; effective May 10, 1985. Emergency Adoption of New Rule entitled "Background" in lieu thereof March 22, 1985; filed May 10, 1985; effective May 10, 1985. Permanent Repeal adopted July 15, 1985; filed July 15, 1985; effective August 19, 1985. Permanent Adoption of new rule in lieu thereof July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment Filed June 19, 2018 Effective

**950-4-7-.05 Purpose.**

- (1) To approach the distribution of available state ~~subsidy~~ Diversion ~~Funds~~ to community-based alternatives and ~~residential programs~~ from a data driven position of overall fairness effectiveness to reduce delinquency and referrals ~~commitments to the department through data driven~~ standardized procedures and applications.
- (2) To maximize the utilization of available funds for subsidies to community-based alternatives ~~and residential programs.~~
- (3) To allocate available funds based on documented ~~financial need of~~ at-risk youth for community-based alternatives ~~and residential programs.~~
- (4) To assist in the coordination of any and all existing resources available to support these programs.
- (5) ~~On an annual basis~~ To ~~provide~~ provide financial assistance to Community Services Diversion ~~Programs~~ and ~~facilities~~ in need of subsidy.



~~(6) To encourage single county facilities and programs through special financial incentives, to share available space and services with counties without resources.~~

**Author:** Patrick J. Pendergast, Deputy Director for Community Services. ~~John Floyd, Administrator, Community and Regional Services.~~

**Statutory Authority:** Title 44, Code of Ala. 1975, § 44-1-24 (7), § 44-1-28.

**History:** Adopted June 29, 1984; filed July 10, 1984 entitled "Procedures." Emergency Repeal adopted March 22, 1985; filed May 10, 1985; effective May 10, 1985. Emergency Adoption of New Rule entitled "Purpose" in lieu thereof March 22, 1985; filed May 10, 1985; effective May 10, 1985. Permanent Repeal adopted July 15, 1985; filed July 15, 1985; effective August 19, 1985. Permanent Adoption of new rule in lieu thereof July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment Filed June 19, 2018 Effective

#### 950-4-7-.06 Procedures.

(1) From data and information received from the applicants and compiled by the department, the Department will ~~establish the following~~ periodically develop a standard Request for Proposal.†

~~(a) acceptable cost limits for detention, group home, attention, wilderness, day treatment services;~~

~~(b) acceptable utilization rates for each type service or program;~~

~~(c) acceptable rate of utilization and percentage of child care days provided outside of base county referrals or catchment area;~~

~~(d) acceptable limits on administrative costs to be included in the subsidy program.~~

(2) Applications will be submitted to ~~DYS~~ the department by facilities counties wishing to participate, using a standard Request for Proposal format provided by the department DYS.

~~(a) Applications will include:~~

~~1. brief program description which explains each program component and its purpose;~~

~~2. brief description of reports and records maintained, follow-up information maintained and any program evaluation information;~~

~~3. breakdown of personnel into administrative, direct service, support services, ancillary programming functions; personnel working in the facility who are currently being subsidized by the Department of Youth Services cannot be counted in personnel costs when developing the application;~~

~~4. budget analysis identifying sources of funds, and a balance sheet noting current financial status. To help insure stability, a program may have as much as 25% of their proposed operating budget in reserve funds.~~

~~(b) Applications will be received by DYS by May 15th. (This time period may be waived by DYS Board.) The staff will review the applications and forward them, with their recommendations to the Board for their final action at their June meeting. This timetable will allow DYS to respond to the applications before the local budget process for July consideration.~~

~~(e3) Criteria for consideration of each application for subsidy Diversion Funds will include the following be in accordance with the RFP Request for Proposal:~~

~~1. financial need as determined by the budget analysis and balance sheet scoring by committee;~~

~~2. cost per child care day prior year grant \_\_\_\_\_ and monitoring will be \_\_\_\_\_ for existing \_\_\_\_\_;~~

~~3. overall utilization rate; data analysis;~~

~~4. level of local effort;~~

~~5. accessibility to and responsiveness to referrals outside the catchment area;~~

~~6. location;~~

~~7. project duration;~~

~~8. level of community involvement through ancillary support services provided in the community.~~

~~(d) Special conditions/requirements for participating~~

~~facilities will include:~~

~~1. must hold a license from DYS;~~

~~2. must be available for use outside the catchment area;~~

~~3. must agree not to supplant local funds or reduce local support;~~

~~4. those programs that have 100% local funding may apply for grants to establish new programs or to expand existing programs. These grants shall be no more than 50% of the proposed operations budget and on the condition that the existing program offer services outside the catchment area. These services may be based on a space available and a per diem charge.~~

**Author:** Patrick J. Pendergast, Deputy Director for Community Services. ~~John Floyd, Administrator, Community and Regional Services.~~

**Statutory Authority:** Title 44, Code of Ala. 1975, § 44-1-24 (7), § 44-1-28.

**History:** Emergency Adoption March 22, 1985; filed May 10, 1985; effective May 10, 1985. Permanent Adoption July 15, 1985; filed July 15, 1985; effective August 19, 1985. Amendment Filed June 19, 2018 Effective

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