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|  | **De artment of Youth Services** |
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|  |
| **Official Policy** |



This policy shall apply to all DYS employees. Providers shall have in place this policy or an equivalent policy and procedures in accordance with contract requirements.

***Applicability:***

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Date

***Signature:***

***References:***

0l.03.03(c)

***Repeals:***

January 7, 2019

***Effective Date:***

0l.03.03(d)

***Policy#:***

Youth Committed for Firearm Offenses

***Policy Name:***

It is the policy of the Department of Youth Services (DYS) that youth committed to DYS on certain firearm offenses as defined herein shall receive time assignments, pass eligibility and placements according to this policy, applicable statutes and case law.

Youth committed to DYS on a first or subsequent firearm offense as a juvenile delinquent shall not be eligible for community pm1ner passes or community placement until they have completed their minimum time assignment described below.

Youth committed as a delinquent for a first firearm offense as defined in this policy shall be placed in a residential placement for no less than six months before becoming eligible for community partner passes or a community placement. Such youth may be considered for the following types of supervised passes: group, grounds, and individual passes issued **in** accordance with the DYS Pass Policy prior to the completion of six months if: a specific recommendation is made in writing by the Regional Review Team; and if approved by the Commissioner or his/her designee on the grounds that the youth's treatment needs and the interests of public safety support earlier pass eligibility.

Youth specifically committed as a delinquent for subsequent firearm offenses as defined by this policy shall receive residential placement for no less than 12 months before becoming eligible for community partner passes or a community placement. Such youth

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may be considered for the following types of supervised passes: group, grounds, and individual passes issued in accordance with the DYS Pass Policy prior to the completion of these twelve months if a specific recommendation is made in writing by the Regional Review Team, and approved by the Commissioner or his/her designee on the grounds that the youth's treatment needs and the interests of public safety support earlier pass eligibility.

Youth committed to DYS as a Youthful Offender on a first or subsequent firearm offense shall have the same time assignment as stated above for a delinquent youth with a first or subsequent offense.

All Youthful Offenders with such firearm offenses, however, shall be eligible within the respective six or twelve month period for community placement and any type of pass, including a community partner pass, subject to the following. Requests for supervised passes shall be issued in accordance with the DYS Pass Policy. Any request for either community placement or a community partner pass, however, must be made in writing by the Regional Review Team, and approved by the Commissioner or his/her designee on the grounds that the Youthful Offender's treatment needs and the interests of public safety support earlier community placement or community pass eligibility.

**Procedure**

1. Definitions
	1. The following definitions shall have the meanings assigned to them in this policy for purposes of interpreting this policy.

Firearm Offenses: Also known as "Bartley-Fox" firearm offenses; Any of the following offenses for which a mandatory penalty is required for adults by the Bartley-Fox Act of 1976, later codified in in G.L. c. 269, s. 10 (a), (c) and (d), including carrying, possession or transfer of any of the following without a license and/or firearm identification card: Firearm, Rifle, Shotgun, Machine Gun, Sawed-off Shotgun, Ammunition.

Commonwealth v. Connor C., 432 Mass. 635 (2000): Case law which holds that the mandatory time assignment outlined inc. 119, §58 for certain so-called "Bartley-Fox" firearm offenses only applies to youth committed on delinquency complaints and does not apply to youth committed to DYS as Youthful Offenders.

Community Placement: A location in the community as approved by the Department of Youth Services or its contracted providers where a DYS youth lives which does not have 24 hour on site supervision by a DYS state or contracted provider employee including, but not limited to home, foster care, and independent living apartments.

Regional Review Team {RRT): A regional team comprised of the Director of Operations, Director of Residential Services, Director of Community Services,

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and Regional Clinical Coordinator who are responsible for making all placement decisions for clients and shall also determine if a client is pass eligible.

Residential Placement: A location operated by DYS or a provider considered to be hardware or staff secure, including DYS overnight arrest/alternative lock up facilities (ALP's), reception centers, detention, assessment, revocation, treatment, and track I and track 2 placements programs.

* 1. Terms that are defined Policy #01.01.04, "Policy Definitions" shall have the meanings assigned to them in that policy, unless a contrary meaning is intended.
	2. Terms not defined in Policy #01.01.04 or in this policy shall have the meanings assigned to them by reasonably accepted standard dictionary definitions of American English.
1. Regional Review Team Requirements

I. The Regional Review Team shall follow the same process for firearm offenses as any other case presented in determining placement.

1. Requests for passes shall be in accordance with the DYS Pass Policy.
2. Requests for passes requiring Commissioner approval must be submitted to the Commissioner or designee after approval by the Regional Pass Review Team and prior to issuance. Such passes must state:
	1. The activities authorized for any such passes will be supervised at all times by a DYS state or contracted provider employee or, for community partner passes, by a community partner; and
	2. How the purpose of such pass is directly related to the goals documented in the youth's service plan.
3. Youth who receive a placement or pass recommendation from the Regional Review Team requiring Commissioner Approval shall not be released to such placement or pass until such recommendation is approved by the Commissioner or designee.

# PERFORMANCE MEASURES:

I. All juveniles committed on a firearm offense are presented to the Regional Review Team in a prompt and timely manner.

2. No passes are granted to youth during the mandatory placement time period.

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# YOUTH COMMITTED FOR FIREARM OFFENSES

**Placement and Pass Eligibility Pursuant to DYS Policy 01.03.03(d)**

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| --- | --- | --- | --- |
| **Firearm Sentence** | **Group and Grounds Pass and Individual Passes** | **Community Partner Passes** | **Community placement** |
| **Juvenile Delinquent** - **first offense** | May be eligible before 6 months w/RRT recommendation and Commissioner Approval | Not eligible until 6 months in Residential Placement | Not eligible until 6 months in Residential Placement |
| **Juvenile Delinquent** -**subsequent offenses** | May be eligible before 12 months w/RRT recommendation and Commissioner Approval | Not eligible until 12 months in Residential Placement | Not eligible until 12 months in Residential Placement |
| **Youthful Offender** - **first offense** | Eligible for all passes at any time w/RRT recommendations and Commissioner Approval | Eligible for all passes at any time w/RRT recommendations and Commissioner Approval | Eligible at any time w/RRT recommendations and Commissioner Approval |
| **Youthful Offender** -**subsequent offenses** | Eligible for all passes at any time w/RRT recommendations and Commissioner Approval | Eligible for all passes at any time w/RRT recommendations and Commissioner Approval | Eligible at any time w/RRT recommendations and Commissioner Approval |