



**Statement of Brian L. Schwalb
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Before Chairman Phil Mendelson, Committee of the Whole

and

Chairman Zachary Parker, Subcommittee on Libraries and Youth Affairs

**Public Hearing on
B25-826, Recidivism Reduction, Oversight, and Accountability for DYRS Act
of 2024 (ROAD Act)**

September 25, 2024

Introduction

Good afternoon. I am DC Attorney General Brian Schwalb, and I am here today to testify in support of B25-826, the Recidivism Reduction, Oversight, and Accountability for DYRS Act of 2024, also known as the ROAD Act. I want to thank Chairman Mendelson for moving quickly to consider this important public safety bill. Subcommittee Chairman Parker, congratulations on your new assignment. I appreciate very much that ROAD is among the first bills you are taking up and look forward to continuing our collaborative relationship.

As Attorney General, my top priority—and the top priority of everyone in my office—is enhancing and protecting public safety. Among other things, the Office of Attorney General (OAG) is charged with prosecuting juvenile crime and holding young people who break the law accountable. But prosecution is not the end of the line. Once a young person is prosecuted, public safety requires a systemic commitment to rehabilitation through a process designed to help that young person take accountability for the harms he or she caused, and, importantly, to prevent them from committing another crime when they eventually, inevitably, return to the community. The available data indicates that with respect to rehabilitation, particularly for young people in the deeper end of the juvenile justice system, the District is failing.

The Department of Youth Rehabilitation Services, or DYRS, is tasked with providing young people with the resources and structure they need to get onto the right track, but we know that DYRS is struggling. The most recent, comprehensive data released by the Mayor's Criminal Justice Coordinating Council in 2022 indicates that nearly 50% of youth committed to DYRS are subsequently convicted of committing an additional criminal offense either while under DYRS' care or within a few years of release from commitment. This is not acceptable. Recidivism reduction must be an essential part of a comprehensive public safety strategy.

I introduced the ROAD Act in the Spring to try to promote better outcomes, to reduce recidivism, and to improve public safety. In advancing targeted, specific amendments to existing DC law, the bill is an important step to improving our system. It will not solve all our problems, but it will close some important gaps with respect to committed youth.

In the months since the ROAD Act's introduction, the primary concern I have heard about the bill is that DYRS cannot handle the expectations laid out for it. I fundamentally disagree. There is no disagreement that DYRS has a difficult mandate: rehabilitating young people who are in the deepest part of our juvenile justice system. But there is also no disagreement that proactive, individualized rehabilitation plans, developed and implemented promptly, are necessary for improving outcomes. The only disagreement appears to be whether we should hold ourselves to a higher standard, a standard we know is necessary for improving outcomes. As the District's chief law officer and juvenile prosecutor, it is my view that it is our obligation to do so, both to better serve District youth, and to make the District safer in both the short and long run.

ROAD has two key goals: first, ensuring prompt, proactive and effective rehabilitation of committed young people; and second, ensuring robust and comprehensive oversight of that rehabilitative process.

ROAD Aims to Improve Rehabilitation Services to Prevent Recidivism in the Juvenile Justice System

Let's start with rehabilitation and what it means to be committed to DYRS. These young people have been adjudicated responsible for committing a crime and a judge has determined that they should be committed into the custody and care of DYRS. Many committed youth will be locked up in a secure facility. Once committed to DYRS, the young person is a ward of the District, and the District has an obligation to provide rehabilitative services, which, along with other quality social supports, are intended to help prevent the committed youth from committing future crimes.

You have heard me and many others talk about the importance of addressing root causes in order to prevent crime from happening. By the time young people show up in the Superior Court's Family Division facing serious criminal charges, they have been failed, repeatedly, by so many people and systems that are supposed to care for them. We need to invest in strategies, policies, and programs that will address the underlying drivers of crime if we hope to prevent, or at least meaningfully reduce, crime from happening in the first place. And, we also have to hold young people accountable when they do commit crime. Commitment to DYRS is an opportunity not only for accountability, but also to address root causes so as to minimize chances of re-offending.

Currently, youth committed to DYRS are waiting far too long to get necessary rehabilitative services. Under existing law, DYRS is supposed to assess that young person's needs and to develop a treatment plan to address those needs within weeks of commitment. Alarming, DYRS' most recent Performance Plan for FY25¹ disclosed that less than half of committed youth—only 45.3%—have a treatment plan within the first 90 days of commitment. Three months after commitment to *develop* a treatment plan, much less implement one. That is not acceptable. Even worse, according to DYRS' own disclosures, most committed youth, nearly 55%, are waiting even longer after they have been committed before receiving their treatment plan. That is not acceptable. Too many committed youth are being securely detained, lingering without individualized rehabilitative services, therapies, or appropriate placement.

We must and can do better. ROAD offers a proactive alternative: develop a meaningful Individual Rehabilitation Plan (or IRP) *before* a young person is formally committed to DYRS, so that delay in providing services is minimized. When OAG prosecutes a young person for serious criminal conduct, there is a point during the proceedings when all parties—the young person, their counsel, OAG, court social services, the court—know that DYRS commitment is the most likely outcome. In serious cases, prior to a disposition hearing, our office has put the parties and the court on written notice that we intend to seek commitment. However, the current practice is for DYRS to wait until after commitment formally begins before conducting an assessment and forming a treatment plan. That is an unnecessary and harmful delay. ROAD provides that, as soon as DYRS is notified of the likelihood of commitment, all relevant stakeholders will begin developing an IRP so that it can be implemented *immediately* upon commitment.

¹ Department of Youth Rehabilitation Services, "Proposed FY2025 Performance Plan," Apr. 3, 2024, available at: https://oca.dc.gov/sites/default/files/dc/sites/oca/page_content/attachments/DYRS_2024-04-05.pdf.

ROAD also goes a step further: it eliminates vagueness in the current law by delineating specific requirements for creating IRPs. ROAD requires the use of an industry-standard tool known as a “validated risk-needs assessment,” ensures that all relevant parties, including the family, are involved in development of the IRP, and requires the IRP to be reassessed every 90 days, to ensure that it is working as intended, and, if it is not, to take a fresh look at what other rehabilitative services the young person might need.

ROAD also requires DYRS to engage in discharge and reentry planning. Currently, when a young person is released from a placement outside of their home there is no statutory obligation for DYRS to ensure that the rehabilitative services are continued upon discharge. This often means returning the young person right back to the same circumstances that led them to a commitment to DYRS. ROAD closes this gap and ensures that we are not missing an opportunity to continue rehabilitation and prevent crime.

ROAD Ensures Crucial Oversight and Transparency for DYRS

Proactive and meaningful, evidence-based rehabilitative planning is the first key pillar of ROAD. Equally important and critical to ensuring the success of that planning is robust oversight and transparency.

Delivering effective rehabilitative services is not easy. Young people who come into DYRS are often dealing with complex trauma, disability, educational failure, mental and behavioral health challenges, substance abuse issues, unstable housing, unsafe communities, and other compounding issues. They are often oppositional and resistant. It takes skilled, trained professionals to address the trauma, meet the needs of each individual child and their families, and help empower them to make positive changes in their lives. DYRS has a weighty responsibility: it must ensure that the youth that the system entrusts into its custody receive the services and support they need to make sure they don’t commit crimes again. It is critically important that DYRS gets its right, and transparency and oversight, especially on such a complicated and difficult issue, are key to getting it right.

The system, as designed, is opaque. ROAD provides oversight and transparency from three key sources: 1) the court; 2) DYRS itself; and 3) an independent third-party agency. I’ll address each of those briefly in turn.

First: the court. Currently, a young person who is committed to DYRS and who is not receiving critical rehabilitative services must wait 6 months before petitioning the court to review the services and placement DYRS is providing. This is too long. ROAD would reduce that time down to 4 months. This shortened time frame would still allow DYRS a reasonable time to, for example, identify a new service provider, switch therapeutic placements, or reassess and update the young person’s IRP, while allowing for timely judicial review if DYRS fails to do so.

Second: DYRS. Currently, DYRS houses committed young people in several different facilities, including New Beginnings Youth Development Center and the Youth Services Center, or YSC, both of which are owned by the District and operated by DYRS. Many young people committed to DYRS, however, are not housed at either facility. Instead, many are securely detained in other

residential settings, including residential treatment centers, psychiatric residential treatment facilities, or therapeutic group homes inside and outside of the District. For all these placements, DYRS contracts with private and other state-run congregate care facilities. Our understanding is that, currently, DYRS only monitors New Beginnings and YSC. ROAD makes clear that DYRS has a duty to ensure that everyone in its custody—not just those securely detained in a District-owned facility—receives the same minimum standard of care and safety. ROAD would make clear that DYRS is required to conduct oversight of any facility where it or the court chooses to place a child.

Finally, since 2020, the District has relied on the Office of Independent Juvenile Justice Facilities Oversight (OIJJFO) to conduct investigations and issue public reports on DYRS, including, for example, detained youth population reports, evaluations of medical and dental services, documentation of critical incidents and assaults within the facilities, and staffing levels and deployment reports. That independent office’s existence has periodically been threatened, even though the need for DYRS transparency and accountability has never been more vital. Fortunately, the Council adopted emergency legislation to continue the office after it otherwise would have sunset back in January, and then through the FY25 budget, placed its functions within the Office of the DC Auditor and provided for it to continue its independent oversight role throughout the coming 2025 fiscal year. The ROAD Act would permanently establish the office’s functions within the Auditor’s Office and expand its mandate to ensure that Council and the public continue to have reliable information about whether and how DYRS is handling its critically important rehabilitative functions, as well as the data necessary to evaluate future needs.

Conclusion

Committed youth spend far more time in the supervision and care of DYRS than they spend interacting with MPD or OAG. DYRS plays a critical role in our public safety infrastructure. It carries the weighty responsibility of rehabilitating District children who, for a variety of reasons, are in the deep end of the juvenile justice system. All of District government—OAG, the Council, the Executive—should be aligned in making sure that DYRS performs its crucial functions as effectively as possible. Public safety in the District, now and into the future, depends on DYRS getting this right. ROAD is a roadmap to help us improve the care and rehabilitation of District youth, and by doing so, maximize the chances that committed youth, after their commitment ends, never find themselves system-involved again, whether that is the juvenile delinquency system or the adult criminal justice system. I urge the Council to pass ROAD.

I look forward to answering your questions.