



REGERINGSKANSLIET

**Ministry of Health
and Social Affairs, Sweden**

The Care of Young Persons Act

SFS 1990:52

Promulgated:
8 March 1990
with amendments up to
and including SFS 2003:420

Date of translation:
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Introductory provisions

Section 1

Measures for children and young persons within the social services are to be undertaken on a basis of agreement with the young person concerned and his or her custodian, as provided in the Social Services Act (2001:453). All measures shall be characterised by respect for the human dignity and integrity of the young person.

Care pursuant to this Act is, however, to be provided for a person under 18 years of age if any of the situations referred to in Section 2 or 3 prevails and the necessary care presumably cannot be given to the young person with the consent of the person or persons having custody of him or her and, if the young person is aged 15 or over, with his or her own consent.

Care pursuant to Section 3 may also be given to a person who is aged 18 but not more than 20, if, in view of the young person's needs and general personal circumstances, it is more appropriate than any other care and necessary care presumably cannot be given with the young person's consent.

Certain other measures may be taken without consent under Sections 22 and 24.

The best interest of the young person shall be of vital concern in decisions under this Act.

The young person's point of view shall be made clear as far as possible. Account shall be taken of the will of the young person, with due consideration of his or her age and maturity. The Act (2003:406).

Provision of care

Section 2

A care order is to be issued if, due to physical or mental abuse, exploitation, neglect or some other circumstance in the home, there is a palpable risk of detriment to the young person's health or development. The Act (2003:406).

Section 3

A care order is also to be made if the young person exposes his health or development to a palpable risk of injury through the abuse of addictive substances, criminal activity or some other socially degrading behaviour.

A care order is also to be made if a young person sentenced to closed institutional care under Chap. 31 Section 1 of the Penal Code, in connection with completion of the sentence, is considered

to be in manifest need of continued care so as not to run the risks referred to in paragraph one. The Act (1998:616).

Section 4

Orders for placing young persons under care pursuant to this Act are issued by the county administrative court at the instance of the social welfare committee.

The application made by the social welfare committee shall include a description of the young person's circumstances, the circumstances that constitute grounds for needing to provide care for the young person, measures taken previously and the care which the social welfare committee intends to arrange.

Section 5

If care has not commenced within four weeks of the day on which the order acquired force of law, the order shall no longer be valid.

Immediate care

Section 6

The social welfare committee may order a young person under 20 years of age to be taken into immediate care

1. if the young person probably needs to be provided with care under this Act and

2. a court decision concerning care cannot be awaited owing to the risk to the young person's health or development or because the continuing inquiry can be seriously impeded or further measures prevented.

If it is not possible to await a decision by the social welfare committee concerning care, an order may be made by the chairman of the committee or by another member appointed by the committee.

After the social welfare committee has applied for care pursuant to the Act, the Court may also make an order for the immediate taking of the young person into care.

Section 7

If the social welfare committee has ordered immediate care, the order must be submitted to the county administrative court for approval within a week after its being made. Both the order and the documents in the case must then be submitted to the court.

The county administrative court shall pronounce on the validity of the order as soon as possible, and unless there are extraordinary impediments it shall do so within a week after receiving the record of decision and the documents in the case.

If an order is not submitted to the county administrative court within the prescribed period, the care shall be terminated.

If the social welfare committee has made an order for immediate care after applying for care pursuant to the Act, the order shall be submitted to the court trying the question of care. The provisions of subsections one-three shall apply in this connection.

Section 8

If an order for immediate care is confirmed by the county administrative court, the social welfare committee shall apply to the county administrative court, within four weeks of the order entering into effect, for care to be provided for the young person pursuant to this Act. The county administrative court may grant an extension of this period, if further investigation or some other special circumstance necessitates such an extension.

Section 9

Immediate care is to be terminated if

1. no application for care has been made within the period specified in Section 8 nor has an extension of the period been requested

2. the court decides in the matter of care.

An immediate care order may not be enforced if the young person is detained in custody.

If there is no longer any cause for care, the social welfare committee shall order the immediate termination of the same. An order of this kind can also be made by the court trying the question of care pursuant to the Act.

Care

Section 10

Care shall be deemed to have begun when the young person has been placed away from his own home under an immediate care or care order.

Concerning the content and organisation of care, the provisions of the Social Services Act (2001:453) and the provisions of Sections 11–20 of this Act are to apply. The Act (2001:466).

Section 11

The social welfare committee decides how the care of the young person is to be arranged and where he or she is to reside during the period of care.

The committee may consent to the young person residing in his or her own home if this may be presumed the most appropriate

way of arranging care, but care pursuant to this Act is always to commence away from the young person's home.

If a decision by the committee under subsection one or two cannot be awaited, the chairman or some other member appointed by the committee may decide the matter. The decision is then to be reported at the next meeting of the committee.

The committee or the person charged with care of the young person by the committee shall keep the young person under surveillance and make such decisions concerning his or her personal circumstances as are necessary for the discharge of care.

For the duration of care, the committee has the same responsibility as the custodian for ensuring that the young person's fundamental rights under Chap. 6, Section 1 of the Children and Parents Code are looked after. The Act (2003:406).

Section 12

Specially approved homes are to be maintained for the care of young persons requiring particularly close surveillance on grounds referred to in Section 3.

If the municipal social welfare committee has resolved that a young person shall reside in a home as aforesaid, the National Board of Institutional Care shall allocate a place in such a home.

If a person belonging to the health and medical services staff who is working at a special youth home becomes aware that the young person has a communicable disease that is defined by Chapter 1, Section 3, second paragraph of the Communicable Diseases Act (2004:168) as a disease that poses a risk to public health, the principal of the home must be informed unless it is clear that there is no risk of the disease being transmitted. The Act (2004:182).

Section 13

The social welfare committee is to maintain close observation of the care given to a young person receiving care by authority of this Act.

If care has been provided for the young person by authority of Section 2, the social welfare committee is to consider, at least once every six months, whether care under the Act is still necessary.

If the young person has been provided with care by authority of Section 3, the social welfare committee is to review, within six months of the care order being enforced, whether care under the Act is to be discontinued. This question is subsequently to be reviewed continuously within six months of the latest review.

When the young person has been placed in the same family home for a period of three years after the implementation of such placement, the social welfare committee shall undertake a special consideration of whether there is reason to apply for a transfer of custody under Chap. 6, Section 8 of the Children and Parents Code. The Act (2003:406).

Section 14

It is the responsibility of the social welfare committee to ensure that greatest possible provision is made for the young person's need of contact with parents or other persons having custody of him.

If necessary in view of the purpose of care under this law, the social welfare committee may decide

1. how the contact with the young person which a parent or other custodians may be entitled under a judgement, a court decision or by agreement to is to be exercised, or

2. that the young person's whereabouts must not be revealed to parents or custodians.

The social welfare committee is to review at least once every three months whether an order of the kind referred to in subsection two is still needed. The Act (2003:406).

Special powers

Section 15

If the young person is receiving care on grounds referred to in Section 3 and is living in a home for particularly close surveillance, he or she may be prevented from leaving the home and his or her freedom of movement may be otherwise restricted as is necessary for the discharge of care. The young person's freedom of movement may also be restricted when the security of other inmates or of the personnel so requires. The Act (2003:420)

Section 15 a

The person taken into care has the right to make and receive telephone calls, receive visits and spend time outside the home to the extent this is suitably possible. The person taken into care may, however, be refused telephone calls and visits if they are liable to jeopardise the care or order in the home.

A stay away from the home shall be for a period determined in advance, not to exceed four weeks.

Decisions to restrict the right to conduct telephone conversations or receive visits and decisions to allow stays away from the home are to be taken by the person in charge of care at the home. Decisions on stays away from the home shall be taken after consulting the social welfare committee.

The Act on Restrictions Concerning Visits in Certain Forms of Compulsory Care (1996:981) contains provisions concerning visits to care institutions under this Act. The Act (2001:466).

Section 15 b

The person taken into care may be provided with care at a unit within the home that can be locked or is otherwise set up for particularly close surveillance, if this is necessary with regard to the security of the person concerned, other inmates or the personnel, or if it is necessary in order to prevent the person taken into care from absconding or otherwise to carry out care. If required in consideration of the inmate's special care needs, his or her security, or the security of other inmates, an inmate in a unit of this kind may be prevented from meeting other inmates (solitary care).

An inmate may be kept in such care for a maximum period of two consecutive months. If required for reasons of special treatment, however, care in such a unit may continue for a longer period, provided that a situation referred to in subsection one still exists and that the inmate is given the opportunity meanwhile to spend time in more open forms of care or away from the home. Cases of solitary care shall be subjected to continuous review and shall always be reviewed within seven days of the latest review. The Act (2003:406).

Section 15 c

If specially warranted because the inmate is acting in a violent manner or is under the influence of intoxicants to such an extent that he or she cannot be kept in order, the inmate may be kept in isolated care. In that case, he or she shall be kept under constant supervision by the personnel. The inmate may not however, be kept in any such isolation longer than is strictly necessary and in any case not for a period lasting more than 24 consecutive hours.

If the inmate is under 15 years of age, a doctor shall promptly give an opinion on any measure taken under subsection one. The measure shall be discontinued immediately if the doctor so requests. The Act (2003:406).

Section 16

A person to whom the provisions of Section 15 apply may not have in his possession narcotic drugs, alcoholic beverages or other intoxicants or syringes, injection needles or other articles especially suitable for use in the abuse or other handling of narcotics. Nor may the young person have in his possession any other object, which may be detrimental to care or order in the home. Any such property found about the young person may be confiscated.

Section 17

If such a measure is deemed warranted, a person coming under the provisions of Section 15 may be subjected to an intimate body search or external physical examination on arrival at the home to ensure that he or she is not carrying any object, which he or she is not allowed to possess while there. This also applies if suspicion

arises during his or her stay at the home that he or she may have such objects in his or her possession.

Intimate body searches and external physical examinations are not to be conducted more closely than the purpose of the measure requires. Every possible consideration is to be shown. A witness is to be present if possible. The Act (2003:406).

Section 17 a

Upon arrival at the home and in connection with a stay away from the home, the inmate is required, unless otherwise indicated by medical or similar reasons, to provide upon demand blood, urine or breath samples to check whether he or she is under the influence of narcotics, alcoholic beverages, other intoxicants or substances covered by the Act Prohibiting Certain Doping Substances (1991:1969) or substances covered by the Act Prohibiting Certain Goods Hazardous to Health (1999:42), if there is reason to suspect that the inmate is under the influence of any such substance. The Act (2001:466).

Section 18

The provisions of Sections 16 and 17 are to apply to all persons receiving care in a home for particularly close surveillance, if this is necessary for the implementation of care and the maintenance of order at the home and is sanctioned by the Government or, by authority of the Government, the National Board of Institutional Care.

Section 19

Letters and other mail sent or received by a person to whom the provisions of Section 15 apply may be subjected to examination if this is justified by considerations of order in the home or by the particular circumstances of the young person concerned. To this end the person in charge of care at the home may open and examine mail arriving for or sent by the young person. If incoming mail contains any article, which the young person is not allowed to possess according to Section 16, that article shall be confiscated.

Letters passing between the young person and a Swedish authority or lawyer or his or her public counsel shall be transmitted without prior examination. The Act (2003:406).

Section 20

In the event of narcotic drugs, alcohol beverages or other intoxicants having been confiscated under Section 16 or 19 or found in a home for particularly close surveillance without their owner being known, the person in charge of care at the home shall have the property destroyed or sold in compliance with the

provisions concerning confiscated property in Section 2, subsection one, of the Forfeiture (Alcoholic Beverages Etc.) Act (1958:205). Proceeds of sale shall accrue to the State.

The same shall be observed concerning hypodermic syringes, needles or other articles specially suitable for use in the abuse or other handling of narcotic drugs.

Termination of care

Section 21

When care under this Act is no longer needed, the social welfare committee is to issue an order for the termination of care. The committee is to make careful preparation for the young person to be reunited with the person or persons having custody of him or her.

Care ordered pursuant to Section 2 is to terminate, at the latest, when the young person reaches the age of 18.

Care ordered under Section 3 is to terminate, at the latest, when the young person reaches the age of 21. The Act (2003:406).

Section 21 a

A care order pursuant to this Act does not preclude an order for

1. refusal of entry or deportation under the Aliens Act (1989:529),

2. deportation under the Aliens (Special Controls) Act (1991:572),

3. extradition under the Extradition (Criminal Offences) Act (1957:668),

4. extradition under the Act on Extradition for Criminal Offences to Denmark, Finland, Iceland and Norway (1959:254),

5. extradition under the Act on Extradition to Denmark, Finland, Iceland or Norway for the Enforcement of Decisions on Care or Treatment (1970:375),

6. extradition under the Act on Cooperation between Sweden and the International Tribunals for Violations of International Humanitarian Law (1994:569),

7. surrender under the Cooperation with the International Criminal Court Act (2002:329), or

8. surrender under the Act on Surrender from Sweden according to the European Arrest Warrant (2003:1156).

Care pursuant to this Act is to be terminated when an order as aforesaid has been enforced. Act (2003:1162).

Other measures

Preventive measures

Section 22

If, as a result of conduct referred to in Section 3, it can be assumed that a young person under 20 will need care under this Act if the conduct continues and the support or treatment which the young person needs cannot be provided with his or her consent, if he or she is aged 15 or over, or that of his or her custodian, the social welfare committee may order

1. that the young person is to keep in regular contact with a specially appointed contact person, or

2. that the young person is to take part in non-institutional treatment within the social services.

When an order of this kind is made, there must also be a special treatment plan.

The provisions of Section 13 (1) and (3) and Section 21 (1) and (3) also apply concerning orders under subsection one. A first review, pursuant to Section 13 (3), of the question as to whether such an order is to cease to apply shall take place for the first time within six months of the date of the social welfare committee's order.

Section 23

An order under Section 22 ceases to apply if

1. an immediate custody order is made, or
2. a care application is granted.

Removal prohibitions etc.

Section 24

The county administrative court may, on application by the social welfare committee, prohibit, for a specified period or until further notice the removal of a minor from a home referred to in Chap. 6 Section 6 of the Social Services Act (2001:453) by the person having custody of him or her, if there is a palpable risk of detriment to the young person's health or development if he or she is separated from the home (removal prohibition). The Act (2003:406).

Section 25

Application for a removal prohibition is made by the social welfare committee, which granted consent, under Chap. 6, Section 6 of the Social Services Act (2001:453), for the young person to be received into a private home. The same committee decides on temporary removal prohibition pursuant to Section 27. The Act (2001:466).

Section 26

The social welfare committee is to review, at least once every three months, whether a removal prohibition is still necessary.

When a removal prohibition is no longer necessary, the social welfare committee is to order its termination.

Section 27

The social welfare committee may issue a temporary removal prohibition if

1. it is probable that a removal prohibition is needed, and
2. a court decision concerning a removal prohibition cannot be awaited, in view of the risk to the young person's health or development.

If the social welfare committee's decision concerning a temporary removal prohibition cannot be awaited, the committee's chairman or some other member appointed by the committee may decide concerning such a prohibition. The decision is to be reported at the next meeting of the committee.

When the social welfare committee has applied for a removal prohibition, the court may also decide on a temporary removal prohibition.

Section 28

If the social welfare committee has decided on a temporary removal prohibition, the decision is to be submitted to the county administrative court. In this case, the provisions of Section 7 (1)-(3) are to apply.

Subsection 29

If the county administrative court confirms a temporary removal prohibition, the social welfare committee is to apply for a removal prohibition within two weeks of the court's decision.

Section 30

A temporary removal prohibition ceases to apply

1. if a removal prohibition has not been applied for within the period specified in Section 29, or
2. when the court determines the question of a removal prohibition.

If there is no longer cause for a temporary removal prohibition, the social welfare committee is to decide on its immediate termination. A decision of this kind may also be made by the court trying a question of removal prohibition.

Section 31

If necessary in consideration of the purpose of a removal prohibition or temporary removal prohibition, the social welfare committee may decide how the contact with the young person to which a parent or other custodians may be entitled is to be exercised. The Act (2003:406).

Medical examination**Section 32**

In matters coming under this Act, the social welfare committee may order medical examination of the young person and appoint a physician to carry out the examination. If it is inappropriate for the examination to be conducted in the young person's home, the committee may appoint other premises for the examination. In judicial proceedings coming under this Act, the same powers shall be vested in the court.

A medical examination shall take place before the committee makes an application as provided in Section 4, unless it is superfluous for particular reasons.

Provisions on handling procedure**Section 33**

Judicial and other proceedings under this Act are to be expedited promptly.

Section 34

If the young person has been taken into custody or if a temporary removal prohibition has been issued, the county administrative court is to try the case within two weeks of the day on which the application for care or a removal prohibition was received. The county administrative court may prolong this period if this is made necessary by further investigation or some other special circumstance.

Section 35

In cases concerning the provision or termination of care or concerning removal prohibitions under this Act, the county administrative court and the administrative court of appeal are to hold verbal proceedings except where manifestly unnecessary. Verbal proceedings are always to be held if requested by any party. The parties are to be informed of their right to request verbal proceedings.

If an individual party summoned by writ of subpoena to enter appearance in person fails to do so, the court may order that he or she be conveyed to court either immediately or on a later day. The Act (2003:420).

Section 36

If the young person is aged 15 or over, he is entitled to speak on his or her own behalf in judicial and other proceedings under this Act.

A person appointed public counsel under Section 39 for a person aged under 15 and who is not at the same time representing the custodian, is without further appointment, the young person's representative in the case or matter to which the appointment refers.

A child under the age of 15 should be heard if this can benefit the investigation and if it may be presumed that he or she will not suffer harm from being questioned. The Act (2003:406).

Section 37

In proceeding before the administrative court of appeal in cases under this Act other than those concerning immediate custody and temporary removal prohibitions, the court is to include lay judges.

Section 38

In judicial and other proceedings under this Act, individual persons may not be served with documents as provided in Section 12 or 15 of the Service of Documents Act (1970:428).

Section 39

In judicial and other proceedings concerning provision of care under Section 2 or 3, immediate custody under Section 6, termination of care under Section 21, a removal prohibition under Section 24 or termination of a removal prohibition under Section 26, or in connection with appeal as provided in Section 41, subsection one, public counsel is to be appointed for the person whom the measure concerns and for that person's custodian, except where it must be presumed that there is no need for counsel.

If public counsel is needed both for the young person and for his custodian, joint counsel is to be appointed unless there is a conflict of interest between them.

Public counsel is appointed by the court trying the case. In proceedings before a municipal social welfare committee or district social welfare committee, public counsel is appointed by the county administrative court. The Act (1996:1648).

Section 40

Orders concerning immediate custody, preventive measures or temporary removal prohibitions can take effect immediately.

Other decision by the social welfare committee pursuant to this Act shall take effect immediately unless the committee orders otherwise.

The court may order that other rulings, which it has made are to take effect immediately.

Provisions concerning appeals**Section 41**

Appeals against decisions by the social welfare committee may be lodged with the county administrative court if the committee has

1. issued a decision as to where the care of the young person is to commence or has ordered the transfer of the young person from the home where he or she is residing,

2. decided a question relating to continued care under this Act,

3. issued a decision, pursuant to Section 14, concerning contact with the young person or concerning non-disclosure of his or her whereabouts,

4. issued a decision under Section 22 or considered whether such an order shall cease to apply,

5. issued a decision concerning access, pursuant to Section 31, or,

6. issued a decision concerning continuing removal prohibition.

Other decisions by the committee pursuant to this Act are not open to appeal.

Court orders pursuant to Section 8 concerning an extended application period and pursuant to Section 32 concerning medical application are not open to appeal. The Act (2003:420).

Section 42

A decision by the person in charge of care at a home for particularly close surveillance may be contested by appeal to the county administrative court if the decision

1. entails restrictions in a particular case of the right of a person residing in the home to conduct telephone conversations or receive visits, under Section 15 a,

2. applies to solitary care under Section 15 b or isolation under Section 15 c, or

3. refers to the destruction or sale of property as provided in Section 20.

A review permit is required for appeals to the administrative court of appeal. The Act (2003:406).

Police assistance

Section 43

The police authority is to lend assistance in order, at the request of

1. the social welfare committee or its chairman or the court, provide access to the young person's home for a physician referred to in Section 32, or convey the young person for medical examination,

2. the social welfare committee or a member or official appointed by the committee, to enforce a care or immediate custody order pursuant to this Act, and

3. the person responsible for care at a home for particularly close surveillance, to trace and return a person being cared for there on grounds referred to in Section 3, if the young person has absconded from the home, or in order to provide for his or her removal otherwise. The Act (2003:406).

Fines

Section 44

Any person infringing a removal prohibition or temporary removal prohibition shall be fined.

Public prosecution is only possible by consent of the social welfare committee, the State county administration or the National Board of Health and Welfare.