

2015 -- H 6016

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- PROCEEDINGS IN
FAMILY COURT

Introduced By: Representatives Azzinaro, McNamara, Naughton, Canario, and Diaz

Date Introduced: April 01, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 14-1-6 of the General Laws in Chapter 14-1 entitled "Proceedings
2 in Family Court" is hereby amended to read as follows:
3 **14-1-6. Retention of jurisdiction.** -- (a) When the court shall have obtained jurisdiction
4 over any child prior to the child having attained the age of eighteen (18) years by the filing of a
5 petition alleging that the child is wayward or delinquent pursuant to § 14-1-5, the child shall,
6 except as specifically provided in this chapter, continue under the jurisdiction of the court until he
7 or she becomes nineteen (19) years of age, unless discharged prior to turning nineteen (19). When
8 the court shall have obtained jurisdiction over any child prior to the child's eighteenth (18th)
9 birthday by the filing of [a miscellaneous petition or](#) a petition alleging that the child is dependent,
10 neglected and abused pursuant to §§ 14-1-5 and 40-11-7 [or 42-72-14](#), including any child under
11 the jurisdiction of the family court on petitions filed and/or pending before the court prior to July
12 1, 2007, the child shall, except as specifically provided in this chapter, continue under the
13 jurisdiction of the court until he or she becomes eighteen (18) years of age; provided, that [at least](#)
14 [six \(6\) months](#) prior to a child turning eighteen (18) years of age, the court shall require the
15 department of children, youth, and families to provide a description of the transition services
16 [including the child's housing, health insurance, education and/or employment plan, available](#)
17 [mentors and continuing support services, including workforce supports and employment services](#)
18 afforded the child in placement or a detailed explanation as to the reason those services were not

1 offered; ~~provided~~. The details of a child's transition plan shall be developed in consultation with
2 the child, wherever possible and approved by the court prior to the dismissal of an abuse, neglect,
3 dependency or miscellaneous petition before the child's twenty-first birthday.

4 (b) The court may retain jurisdiction of any child who is seriously emotionally disturbed
5 or developmentally delayed pursuant to § 42-72-5(24)(v) until that child turns age twenty-one
6 (21) when the court shall have obtained jurisdiction over any child prior to the child's eighteenth
7 birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent,
8 neglected and or abused pursuant to §§ 14-1-5, and 40-11-7, or 42-72-14.

9 (c) The department of children, youth and families shall work collaboratively with the
10 department of behavioral healthcare, developmental disabilities and hospitals, and other agencies,
11 in accordance with § 14-1-59, to provide the family court with a transition plan for those
12 individuals who come under the court's jurisdiction pursuant to a petition alleging that the child is
13 dependent, neglected and or abused and who are seriously emotionally disturbed or
14 developmentally delayed pursuant to § 42-72-5(24)(v). This plan shall be a joint plan presented to
15 the court by the department of children, youth and families and the department of behavioral
16 healthcare, developmental disabilities and hospitals. The plan shall include the behavioral
17 healthcare, developmental disabilities and hospitals' community or residential service level,
18 health insurance option, education plan, available mentors, continuing support services,
19 workforce supports and employment services, and the plan shall be provided to the court at least
20 twelve (12) months prior to discharge. At least three (3) months prior to discharge, the plan shall
21 identify the specific placement for the child, if a residential placement is needed. The court shall
22 monitor the transition plan. In the instance where the department of behavioral healthcare,
23 developmental disabilities and hospitals has not made timely referrals to appropriate placements
24 and services, the department of children, youth and families may initiate referrals.

25 (d) The parent and/or guardian and/or guardian ad litem of a child who is seriously
26 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(24)(v), and who is
27 before the court pursuant to §§ 14-1-5(1)(iii) through 14-1-5(1)(v), 40-11-7 or 42-72-14, shall be
28 entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no
29 appropriate transition plan has been submitted to the court by the department of children, person
30 and families and the department of behavioral healthcare, developmental disabilities and
31 hospitals. The family court shall require that the department of behavioral healthcare,
32 developmental disabilities, and hospitals shall immediately identify a liaison to work with the
33 department of children, youth, and families until the child reaches the age of twenty-one (21) and
34 an immediate transition plan be submitted if the following facts are found:

1 (1) No suitable transition plan has been presented to the court addressing the levels of
2 service appropriate to meet the needs of the child as identified by the department of behavioral
3 healthcare, developmental disabilities and hospitals; or

4 (2) No suitable housing options, health insurance, educational plan, available mentors,
5 continuing support services, workforce supports and employment services have been identified
6 for the child.

7 (e) Provided, further, that any youth who comes within the jurisdiction of the court by the
8 filing of a wayward or delinquent petition based upon an offense which was committed prior to
9 July 1, 2007, including youth who are adjudicated and committed to the Rhode Island Training
10 School and who are placed in a temporary community placement as authorized by the family
11 court, may continue under the jurisdiction of the court until he or she turns twenty one (21) years
12 of age.

13 ~~(e)~~(f) In any case where the court shall not have acquired jurisdiction over any person
14 prior to the person's eighteenth (18th) birthday by the filing of a petition alleging that the person
15 had committed an offense, but a petition alleging that the person had committed an offense which
16 would be punishable as a felony if committed by an adult has been filed before that person attains
17 the age of nineteen (19) years of age, that person shall, except as specifically provided in this
18 chapter, be subject to the jurisdiction of the court until he or she becomes nineteen (19) years of
19 age, unless discharged prior to turning nineteen (19).

20 ~~(e)~~(g) In any case where the court shall not have acquired jurisdiction over any person
21 prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that
22 the person had committed an offense prior to the person attaining the age of eighteen (18) years
23 which would be punishable as a felony if committed by an adult, that person shall be referred to
24 the court which would have had jurisdiction over the offense if it had been committed by an adult.
25 The court shall have jurisdiction to try that person for the offense committed prior to the person
26 attaining the age of eighteen (18) years and, upon conviction, may impose a sentence not
27 exceeding the maximum penalty provided for the conviction of that offense.

28 ~~(e)~~(h) In any case where the court has certified and adjudicated a child in accordance
29 with the provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the
30 power and authority to sentence the child to a period in excess of the age of nineteen (19) years.
31 However, in no case shall the sentence be in excess of the maximum penalty provided by statute
32 for the conviction of the offense.

33 ~~(e)~~(i) Nothing in this section shall be construed to affect the jurisdiction of other courts
34 over offenses committed by any person after he or she reaches the age of eighteen (18) years.

1 SECTION 2. Section 40.1-5.4-4 of the General Laws in Chapter 40.1-5.4 entitled
2 "Division of Mental Health" is hereby amended to read as follows:

3 **40.1-5.4-4. Powers and duties of director of mental health, retardation and hospitals.**

4 **==** The director of mental health, retardation, and hospitals shall, subject to available
5 appropriations, have the following powers and duties:

6 (1) To be responsible for planning and developing a complete, comprehensive and
7 integrated statewide system of mental health services; provided that the department's highest
8 priorities shall be to provide services to residents with serious mental illness, early and ongoing
9 treatment and support for serious mental illness and research into the causes and treatment of
10 serious mental illness in the development of the system, the department shall consult with all
11 facilities and agencies, both public and private, concerned with the mental health of the residents
12 of Rhode Island;

13 (2) To implement the system in cooperation with providers of mental health services;

14 (3) To coordinate the efforts of the department of mental health, retardation, and
15 hospitals with those of other state departments and agencies, municipal governments as well as
16 the federal government and private agencies concerned with and providing services for persons
17 with serious mental illness;

18 (4) To be responsible for the administration of state operated facilities established for the
19 diagnosis, care and rehabilitation of adults with serious mental illness and to ensure that there are
20 adequate state facilities to provide these services;

21 (5) To have general supervision of all private facilities as that term is defined in § 40.1-
22 5-2(3) and to exercise the powers and duties provided for in § 40.1-5-1 et seq.;

23 (6) To establish standards in conformance with generally accepted professional practice
24 and to provide technical assistance to all state supported diagnostic facilities, rehabilitation
25 centers, community residences, community mental health centers, and other facilities for the
26 persons with serious mental illness licensed by the department pursuant to § 40.1-24-1 et seq.;

27 (7) To monitor and inspect to insure compliance with the standards. Provided, however,
28 that none of the foregoing shall be applicable to any of the facilities wholly within the control of
29 any other department of state government;

30 (8) To stimulate research by public and private agencies, institutions of higher learning,
31 and hospitals, in the interest of the elimination and amelioration of serious mental illness, and
32 care and treatment of persons with serious mental illness;

33 (9) To provide funding to the various community agencies and private nonprofit
34 agencies, in amounts, which will enable adults with serious mental illness to receive services

1 appropriate to their individual's needs;

2 (10) To take, hold and administer in trust for the state any grant, devise, gift or bequest
3 made either to the state or to the department for the use of persons under its care or for the
4 expenditure upon any work which the department is authorized to undertake;

5 (11) To establish and maintain a comprehensive program of community mental health
6 services, utilizing the community mental health centers and other community mental health
7 agencies and to establish standards for the development of these community programs;

8 (12) To exercise the powers and duties relating to community mental health centers in
9 accordance with § 40.1-8.5-1 et seq.;

10 (13) To exercise the powers and duties relating to the licensing of community mental
11 health facilities in accordance with § 40.1-24-1 et seq.;

12 (14) To consult with and assist the governor's council on behavioral health in accordance
13 with the requirements of § 40.1-29;

14 (15) To exercise the powers and duties relating to care and treatment of forensic patients
15 in accordance with § 40.1-5.3-1 et seq.;

16 (16) To cooperate with the department of corrections, the courts and local and state law
17 enforcement authorities to ensure adequate, fair and humane treatment of persons with serious
18 mental illness involved in the criminal justice system.

19 (17) To initiate transition planning:

20 (i) In cooperation with the department of children, youth and families and local school
21 departments for any person who receives services through the department of children, youth, and
22 families, is seriously emotionally disturbed or developmentally delayed pursuant § 42-72-29
23 5(24)(v), and whose care may or shall be administered by the department of behavioral
24 healthcare, developmental disabilities and hospitals after the age of twenty-one (21) years, the
25 transition planning shall commence at least twelve (12) months prior to the child's twenty-first
26 birthday and shall result in a collaborative plan submitted to the family court by both behavioral
27 healthcare, developmental disabilities and hospitals and the department of children, youth, and
28 families and shall require the approval of the court prior to the dismissal of the abuse, neglect,
29 dependency or miscellaneous petition;

30 (ii) In cooperation with the individual, the parents/legal guardians and school districts for
31 any other person whose care may or shall be administered by the department of behavioral
32 healthcare, developmental disabilities and hospitals after the age of twenty-one (21) years, the
33 transition planning shall commence at least twelve (12) months prior to the child's twenty-first
34 birthday and shall specifically identify housing options, supportive services, health care and

1 [workforce training or opportunities.](#)

2 ~~(17)~~(18) To act in the capacity of "state mental health authority" as that term has
3 meaning for a coordination of state mental health planning and policy, and as it also relates to
4 requirements set forth in pertinent federal mental health laws and regulations.

5 ~~(18)~~(19) To propose, review, and/or approve, as appropriate, proposals, policies, or plans
6 involving insurance or managed care systems for mental health services in Rhode Island or those
7 aimed at improving the overall mental health of Rhode Island residents when the proposals,
8 policies or plans relate to the publicly administered integrated state mental health service system.

9 SECTION 3. Section 42-72-5 of the General Laws in Chapter 42-72 entitled "Department
10 of Children, Youth, and Families" is hereby amended to read as follows:

11 **42-72-5. Powers and scope of activities.** -- (a) The department is the principal agency of
12 the state to mobilize the human, physical and financial resources available to plan, develop, and
13 evaluate a comprehensive and integrated statewide program of services designed to ensure the
14 opportunity for children to reach their full potential. The services include prevention, early
15 intervention, out-reach, placement, care and treatment, and after-care programs; provided,
16 however, that the department notifies the state police and cooperates with local police
17 departments when it receives and/or investigates a complaint of sexual assault on a minor and
18 concludes that probable cause exists to support the allegations(s). The department also serves as
19 an advocate for the needs of children.

20 (b) To accomplish the purposes and duties, as set forth in this chapter, the director is
21 authorized and empowered:

22 (1) To establish those administrative and operational divisions of the department that the
23 director determines is in the best interests of fulfilling the purposes and duties of this chapter;

24 (2) To assign different tasks to staff members that the director determines best suit the
25 purposes of this chapter;

26 (3) To establish plans and facilities for emergency treatment, relocation and physical
27 custody of abused or neglected children which may include, but are not limited to,
28 homemaker/educator child case aides, specialized foster family programs, day care facilities,
29 crisis teams, emergency parents, group homes for teenage parents, family centers within existing
30 community agencies, and counseling services;

31 (4) To establish, monitor, and evaluate protective services for children including, but not
32 limited to, purchase of services from private agencies and establishment of a policy and
33 procedure manual to standardize protective services;

34 (5) To plan and initiate primary and secondary treatment programs for abused and

1 neglected children;

2 (6) To evaluate the services of the department and to conduct periodic comprehensive
3 needs assessment;

4 (7) To license, approve, monitor, and evaluate all residential and non-residential child
5 care institutions, group homes, foster homes, and programs;

6 (8) To recruit and coordinate community resources, public and private;

7 (9) To promulgate rules and regulations concerning the confidentiality, disclosure and
8 expungement of case records pertaining to matters under the jurisdiction of the department;

9 (10) To establish a minimum mandatory level of twenty (20) hours of training per year
10 and provide ongoing staff development for all staff; provided, however, all social workers hired
11 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social
12 work or a closely related field, and must be appointed from a valid civil service list;

13 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to
14 chapter 11 of title 40;

15 (12) To promulgate all rules and regulations necessary for the execution of departmental
16 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;

17 (13) To provide and act as a clearinghouse for information, data and other materials
18 relative to children;

19 (14) To initiate and carry out studies and analysis which will aid in solving local,
20 regional and statewide problems concerning children;

21 (15) To represent and act on behalf of the state in connection with federal grant programs
22 applicable to programs for children in the functional areas described in this chapter;

23 (16) To seek, accept, and otherwise take advantage of all federal aid available to the
24 department, and to assist other agencies of the state, local agencies, and community groups in
25 taking advantage of all federal grants and subventions available for children;

26 (17) To review and coordinate those activities of agencies of the state and of any
27 political subdivision of the state which affect the full and fair utilization of community resources
28 for programs for children, and initiate programs that will help assure utilization;

29 (18) To administer the pilot juvenile restitution program, including the overseeing and
30 coordinating of all local community based restitution programs, and the establishment of
31 procedures for the processing of payments to children performing community service; and

32 (19) To adopt rules and regulations which:

33 (i) For the twelve (12) month period beginning on October 1, 1983, and for each
34 subsequent twelve (12) month period, establish specific goals as to the maximum number of

1 children who will remain in foster care for a period in excess of two (2) years; and

2 (ii) Are reasonably necessary to implement the child welfare services and foster care
3 programs;

4 (20) May establish and conduct seminars for the purpose of educating children regarding
5 sexual abuse;

6 (21) To establish fee schedules by regulations for the processing of requests from
7 adoption placement agencies for adoption studies, adoption study updates, and supervision related
8 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)
9 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);

10 (22) To be responsible for the education of all children who are placed, assigned, or
11 otherwise accommodated for residence by the department in a state operated or supported
12 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility the
13 department is authorized to enroll and pay for the education of students in the public schools or,
14 when necessary and appropriate, to itself provide education in accordance with the regulations of
15 the board of regents for elementary and secondary education either directly or through contract;

16 (23) To develop multidisciplinary service plans, in conjunction with the department of
17 health, at hospitals prior to the discharge of any drug-exposed babies. The plan requires the
18 development of a plan using all health care professionals.

19 (24) To be responsible for the delivery of appropriate mental health services to seriously
20 emotionally disturbed children and children with functional developmental disabilities.
21 Appropriate mental health services may include hospitalization, placement in a residential
22 treatment facility, or treatment in a community based setting. The department is charged with the
23 responsibility for developing the public policy and programs related to the needs of seriously
24 emotionally disturbed children and children with functional developmental disabilities.

25 In fulfilling its responsibilities the department shall:

26 (i) Plan a diversified and comprehensive network of programs and services to meet the
27 needs of seriously emotionally disturbed children and children with functional developmental
28 disabilities;

29 (ii) Provide the overall management and supervision of the state program for seriously
30 emotionally disturbed children and children with functional developmental disabilities;

31 (iii) Promote the development of programs for preventing and controlling emotional or
32 behavioral disorders in children;

33 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of
34 seriously emotionally disturbed children and children with functional developmental disabilities

1 and to work with private agencies serving those children;

2 (v) Promote the development of new resources for program implementation in providing
3 services to seriously emotionally disturbed children and children with functional developmental
4 disabilities.

5 The department shall adopt rules and regulations, which are reasonably necessary to
6 implement a program of mental health services for seriously emotionally disturbed children.

7 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at
8 least in accordance with rules and regulations to be adopted by the department, at least its average
9 per pupil cost for special education for the year in which placement commences, as its share of
10 the cost of educational services furnished to a seriously emotionally disturbed child pursuant to
11 this section in a residential treatment program which includes the delivery of educational services.

12 "Seriously emotionally disturbed child" means any person under the age of eighteen (18)
13 years or any person under the age of twenty-one (21) years who began to receive services from
14 the department prior to attaining eighteen (18) years of age and has continuously received those
15 services thereafter who has been diagnosed as having an emotional, behavioral or mental disorder
16 under the current edition of the Diagnostic and Statistical Manual and that disability has been on-
17 going for one year or more or has the potential of being ongoing for one year or more, and the
18 child is in need of multi-agency intervention, and the child is in an out-of-home placement or is at
19 risk of placement because of the disability.

20 A child with a "functional developmental disability" means any person under the age of
21 eighteen (18) years or any person under the age of twenty-one (21) years who began to receive
22 services from the department prior to attaining eighteen (18) years of age and has continuously
23 received those services thereafter.

24 The term "functional developmental disability" includes autism spectrum disorders and
25 means a severe, chronic disability of a person which:

26 ~~(a)~~(A) Is attributable to a mental or physical impairment or combination of mental
27 physical impairments;

28 ~~(b)~~(B) Is manifested before the person attains age eighteen (18);

29 ~~(c)~~(C) Is likely to continue indefinitely;

30 ~~(d)~~(D) Results in age- appropriate substantial functional limitations in three (3) or more
31 of the following areas of major life activity.

32 ~~(i)~~(I) Self-care;

33 ~~(ii)~~(II) Receptive and expressive language;

34 ~~(iii)~~(III) Learning;

- 1 ~~(iv)~~(IV) Mobility;
- 2 ~~(v)~~(V) Self-direction;
- 3 ~~(vi)~~(VI) Capacity for Independent Living; and
- 4 ~~(vii)~~(VII) Economic self-sufficiency; and

5 (e) Reflects the person's need for a combination and sequence of special,
6 interdisciplinary, or generic care, treatment, or other services which are of life-long or extended
7 duration and are individually planned and coordinated.

8 Funding for these clients shall include funds that are transferred to the Department of
9 Human Services as part of the Managed Health Care program transfer. However, the expenditures
10 relating to these clients shall not be part of the Department of Human Services' Caseload
11 estimated for the semi-annual Caseload Estimating Conference. The expenditures shall be
12 accounted for separately.

13 (25) To provide access to services to any person under the age of eighteen (18) years or
14 any person under the age of twenty-one (21) years who began to receive child welfare services
15 from the department prior to attaining eighteen (18) years of age, has continuously received those
16 services thereafter and elects to continue to receive such services after attaining the age of
17 eighteen (18) years. The assembly has included funding in the FY 2008 Department of Children,
18 Youth and Families budget in the amount of \$10.5 million from all sources of funds and \$6.0
19 million from general revenues to provide a managed system to care for children serviced between
20 18 to 21 years of age. The department shall manage this caseload to this level of funding.

21 (26) To initiate transition planning in cooperation with the department of behavioral
22 healthcare, developmental disabilities and hospitals and local school departments for any child
23 who receives services through the department of children, youth and families, is seriously
24 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(24)(v), and whose care
25 may or shall be administered by the department of behavioral healthcare, developmental
26 disabilities and hospitals after the age of twenty-one (21) years, the transition planning shall
27 commence at least twelve (12) months prior to the person's twenty-first birthday and shall result
28 in a collaborative plan submitted to the family court by both the department of behavioral
29 healthcare, developmental disabilities and hospitals and the department of children, youth and
30 families and shall require the approval of the court prior to the dismissal of the abuse, neglect,
31 dependency or miscellaneous petition before the child's twenty-first birthday.

32 ~~(26)~~(27) To develop and maintain, in collaboration with other state and private agencies,
33 a comprehensive continuum of care in this state for children in the care and custody of the
34 department or at risk of being in state care. This continuum of care should be family-centered and

1 community-based with the focus of maintaining children safely within their families or, when a
2 child cannot live at home, within as close proximity to home as possible based on the needs of the
3 child and resource availability. The continuum should include community-based prevention,
4 family support and crisis intervention services as well as a full array of foster care and residential
5 services, including residential services designed to meet the needs of children who are seriously
6 emotionally disturbed, children who have a functional developmental disability and youth who
7 have juvenile justice issues. The director shall make reasonable efforts to provide a
8 comprehensive continuum of care for children in the care and custody of the DCYF, taking into
9 account the availability of public and private resources and financial appropriations and the
10 director shall submit an annual report to the general assembly as to the status of his or her efforts
11 in accordance with the provisions of subsection 42-72-4(b)(13).

12 ~~(27)~~(28) To administer funds under the John H. Chafee Foster Care Independence and
13 Educational And Training Voucher (ETV) Programs of Title IV-E of the Social Security Act, and
14 the DCYF Higher Education Opportunity Grant Program as outlined in RIGL § 42-72.8, in
15 accordance with rules and regulations as promulgated by the director of the department.

16 (c) In order to assist in the discharge of his or her duties, the director may request from
17 any agency of the state information pertinent to the affairs and problems of children.

18 (d) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

19 (e) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

20 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- PROCEEDINGS IN
FAMILY COURT

1 This act would mandate the development of a transition plan by the department of
2 children, youth and families in collaboration with the department of behavioral healthcare,
3 developmental disabilities and hospitals for all children, under the jurisdiction of the family court,
4 who are developmentally delayed or seriously emotionally disturbed prior to the child turning
5 twenty one (21) years of age addressing housing, placement options, health insurance, education,
6 employment services, mentors and continuing support services. It would also mandate transition
7 planning for other youth who will be receiving services from the department of behavioral
8 healthcare, developmental disabilities and hospitals after their twenty-first birthday.

9 This act would take effect upon passage.

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