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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

Introduced By: Senators Lanzi, and Picard

Date Introduced: February 12, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-72-2, 42-72-3, 42-72-4 and 42-72-5 of the General Laws in
2 Chapter 42-72 entitled "Department of Children, Youth, and Families" are hereby amended to
3 read as follows:

4 **42-72-2. Declaration of policy.** -- The state finds and declares:

5 (1) That parents have the primary responsibility for meeting the needs of their children,
6 and the state has an obligation to help them discharge this responsibility or to assume this
7 responsibility when parents are unable to do so;

8 (2) That the state has a basic obligation to promote, safeguard and protect the social
9 well-being and development of the children of the state through a comprehensive program
10 providing for:

11 (i) Social services and facilities for children who require guidance, care, control,
12 protection, treatment, or rehabilitation;

13 (ii) A permanent home and safe environment for children; services to children and their
14 families to prevent the unnecessary removal of children from their homes; foster care and services
15 to children with special needs who must be removed from their families to meet their particular
16 needs;

17 (iii) The strengthening of the family unit and making the home safe for children by
18 enhancing the parental capacity for good child care;

- 1 (iv) The setting of standards for social services and facilities for children;
2 (v) The preventing and controlling of juvenile delinquency; and
3 (vi) The promoting and developing of specialized comprehensive mental health services
4 for the care and treatment of children;

5 (vii) The preventing of sexual abuse of children both within and outside their families;

6 (3) That the upgrading and maintenance of services, resources, and programs pertaining
7 to children deserves priority consideration as a means of preventing ineffective responses to their
8 social well-being and development;

9 (4) That the establishment of a department of state government to provide for social
10 well-being and development of children is the most effective way to insure that the state meets its
11 basic obligation to children;

12 (5) That the state department of children, youth, and families be designated as the single
13 authority to establish and provide a diversified and comprehensive program of services for the
14 social well-being and development of children and their families; and

15 (6) In furtherance of its purpose, the department of children, youth, and families will
16 cooperate with the family court, other public and private agencies and the federal government in
17 the development of comprehensive programs to prevent problems in children and their families. It
18 shall take the initiative in all matters concerning children and their families and stimulate
19 community planning in the coordination and development of a broad public policy of services to
20 children and their families. It shall establish professional standards of services, develop and
21 provide in-service training programs pertinent thereto, and stimulate research to improve the
22 quality of service programs for children and their families. It shall coordinate its services with
23 other services in the state and local community.

24 **42-72-3. Definitions.** – For the purposes of this chapter:

25 (1) "Advocate" means the child advocate or any of his or her agents, servants or
26 employees as established pursuant to this title.

27 (2) "Child" or "children" means any person under the age of eighteen (18); provided that
28 children over the age of eighteen (18) and who continue to receive services from the department
29 and/or who are defined as emotionally disturbed and/or as children with functional developmental
30 disabilities as referenced in this section shall be considered "children" for all the purposes of this
31 chapter.

32 (3) "Child abuse and neglect" is that term as defined in chapter 11 of title 40.

33 (4) "Department" means the department of children, youth, and families.

34 (5) "Director" means the director of children, youth, and families, or his or her designee.

1 (6) "Regional service center" means the respective local or regional units established by
2 the director.

3 (7) "Near fatality" means an act that, as certified by a physician, placed the child in
4 serious or critical condition.

5 (8) "Infant" means any person under the age of twenty-four (24) months.

6 [\(9\) "Sexual abuse" means sexual assault as defined in section 11-37-1 and sexual](#)
7 [exploitation as defined in sections 11-9-1.1, 11-9-1.2 and 11-9-1.3.](#)

8 **42-72-4. Qualifications and duties of director.** – (a) The director shall meet the
9 following minimum qualifications:

10 (1) Hold a master's degree in social work or a closely related field, and have
11 demonstrated experience in child welfare and/or children's mental health, and/or juvenile justice;
12 and

13 (2) Have at least five (5) years of increasing responsibility in administering programs for
14 children.

15 (b) The director's duties include, but are not limited to:

16 (1) Administration and direction of the operation of the department;

17 (2) Examination of programs, services, and plans for children for the purpose of
18 identifying duplications, inefficiencies, effectiveness of programs, resources and unmet needs;

19 (3) Securing and analysis of departmental plans and budget requests affecting children's
20 programs and services;

21 (4) Review of federal funds utilized and available to the state for children's programs and
22 services;

23 (5) Collation of items in the governor's budget related to programs and services for
24 children and issuance of impact statements;

25 (6) Formulation of recommendations to the governor and other appropriate department
26 heads on planning and expenditures for children's programs and services;

27 (7) Liaison with community child advocacy groups, including parents, to receive advice
28 on resources, needs and priorities in the different localities;

29 (8) Provide effective public information on children's services in Rhode Island;

30 (9) Advise the legislature on the needs of children and their families;

31 (10) Establish a central registry for the purpose of reporting, collating, receiving, and
32 administering reports involving children;

33 (11) Liaison with other state departments, agencies, local governments, and private
34 providers of services to coordinate services and maximize resources in developing programs;

1 (12) Formulation of rules and regulations necessary to carry out the provisions of this
2 chapter;

3 (13) Preparation and submission within ninety (90) days after the end of each fiscal year
4 of an annual report ~~and state plan to be sent to the governor and the general assembly;~~ of the
5 department's activities during that fiscal year to the governor, the speaker of the house of
6 representatives, the president of the senate, and the secretary of state. The report shall provide:

7 (i) A description of rules or regulations promulgated pursuant to the Administrative
8 Procedures Act, chapter 35 of title 42;

9 (ii) A list of studies conducted, policies and plans developed, approved, or modified;

10 (iii) A summary of programs administered or initiated;

11 (iv) A summary of performance during the previous fiscal year including
12 accomplishments, shortcomings and remedies;

13 (v) A summary of training courses held pursuant to the provisions of this chapter;

14 (vi) A statistical summary of complaints and conclusions related to the department's duty
15 to protect children from all forms of sexual assault and abuse pursuant to this chapter and
16 chapters 11-9, 11-37, 40-11. This statistical summary shall include the types of complaints
17 received, a description, by category, of children allegedly harmed, an account of hearings
18 conducted within the department, proceedings in family court, and appeals;

19 (vii) A description of anticipated activities in the coming fiscal year, and findings and
20 recommendations for improvements;

21 (viii) A consolidated financial statement of all funds received and expended including the
22 source of the funds, a listing of staff supported by these funds, and a summary of any clerical,
23 administrative or technical support received.

24 The director's annual report shall be posted electronically on the websites of the
25 department, the general assembly and the secretary of state pursuant to the provisions of section
26 42-20-8.2. The governor shall be responsible for the enforcement of the provisions of this
27 subsection.

28 (14) Provision or arrangement for the provision of suitable treatment, rehabilitation, and
29 care for each child under the director's supervision by pursuing the least restrictive placement
30 and, wherever feasible, by effectuating community placements in Rhode Island;

31 (15) The director shall provide for a case management information system that includes
32 data regarding, but not limited to, client entry, screening, client's needs assessment, development
33 of a client service plan, services provision, evaluation, review and monitoring of client progress,
34 and client exit from the system. In addition, the director shall establish a centralized case

1 management unit to receive all service plans and using any additional expertise as may be
2 required, will review, monitor, evaluate, endorse, and/or modify as may be appropriate, each
3 client service plan;

4 (16) Administer in a coordinated and integrated manner all institutions and facilities
5 which are or may come under the jurisdiction of the department; and

6 (17) Develop a comprehensive program for the prevention of problems of children and
7 provide a flexible, innovative, and effective program for the placement, care, and treatment of
8 children committed by any court to the department, transferred to the department by other
9 departments, or voluntarily admitted to the department.

10 (18) Establish a process and promulgate regulations for ensuring that all unclassified and
11 classified employees within the department hired or promoted after the effective date of this
12 subdivision to deal directly with children and families:

13 (i) Are fully qualified in intellect, ability, temperament, impartiality, diligence,
14 experience, maturity, and education to deal with the complex problems affecting children who
15 may have experienced physical or sexual abuse;

16 (ii) Have a record of maintaining the highest professional and ethical standards;

17 (iii) Shall be subject to annual review by the director of the department in regard to cases
18 heard, cases resolved, and comments or complaints received from persons involved in those
19 cases.

20 (19) Establish a process and promulgate regulations for ensuring that all hearing officers,
21 psychiatrists, psychologists, licensed social workers, other clinicians who are not unclassified or
22 classified employees of the state but are engaged by or through the department, whether paid by
23 the department or by persons under supervision of the department:

24 (i) Are fully qualified in intellect, ability, temperament, impartiality, diligence,
25 experience, maturity, and education to deal with the complex problems affecting children who
26 may have experienced physical or sexual abuse;

27 (ii) Have a record of maintaining the highest professional and ethical standards;

28 (iii) Shall be subject to annual review by the director of the department in regard to cases
29 heard, cases resolved, and comments or complaints received from persons involved in those
30 cases.

31 (iv) Have their names and qualifications posted electronically by the department for
32 public review.

33 (20) Establish a process and promulgate regulations under which:

34 (i) Persons subject to decisions of the department and members of the public may

1 complain to the director about any violation of rights by department employees described in
2 subdivision (18) above or by professionals engaged by or through the department described in
3 subdivision (19) above;

4 (ii) Such complaints shall be considered within sixty (60) days as a matter of record
5 within the department and may be subject to appeal.

6 **42-72-5. Powers and scope of activities.** -- (a) The department is the principal agency of
7 the state to mobilize the human, physical and financial resources available to plan, develop, and
8 evaluate a comprehensive and integrated statewide program of services designed to ensure the
9 opportunity for children to reach their full potential. The services include prevention, early
10 intervention, out-reach, placement, care and treatment, and after-care programs; provided,
11 however, that the department notifies the state police and cooperates with local police
12 departments when it receives and/or investigates a complaint of sexual assault on a minor and
13 concludes that probable cause exists to support the allegations(s). The department also serves as
14 an advocate for the needs of children.

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

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

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

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

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

29 (5) To plan and initiate primary and secondary treatment programs for abused and
30 neglected children;

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

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

- 1 (8) To recruit and coordinate community resources, public and private;
- 2 (9) To promulgate rules and regulations concerning the confidentiality, disclosure and
3 expungement of case records pertaining to matters under the jurisdiction of the department;
- 4 (10) To establish a minimum mandatory level of twenty (20) hours of training per year
5 and provide ongoing staff development for all staff; provided, however, all social workers hired
6 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social
7 work or a closely related field, and must be appointed from a valid civil service list;
- 8 (11) To establish procedures for reporting [suspected sexual assault against children](#)
9 [pursuant to chapter 11 of title 37](#), suspected child abuse and neglect pursuant to chapter 11 of title
10 40 [,and suspected sexual exploitation of children pursuant to chapter 11 of title 9](#);
- 11 (12) To promulgate all rules and regulations necessary for the execution of departmental
12 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;
- 13 (13) To provide and act as a clearinghouse for information, data and other materials
14 relative to children;
- 15 (14) To initiate and carry out studies and analysis which will aid in solving local,
16 regional and statewide problems concerning children;
- 17 (15) To represent and act on behalf of the state in connection with federal grant programs
18 applicable to programs for children in the functional areas described in this chapter;
- 19 (16) To seek, accept, and otherwise take advantage of all federal aid available to the
20 department, and to assist other agencies of the state, local agencies, and community groups in
21 taking advantage of all federal grants and subventions available for children;
- 22 (17) To review and coordinate those activities of agencies of the state and of any
23 political subdivision of the state which affect the full and fair utilization of community resources
24 for programs for children, and initiate programs that will help assure utilization;
- 25 (18) To administer the pilot juvenile restitution program, including the overseeing and
26 coordinating of all local community based restitution programs, and the establishment of
27 procedures for the processing of payments to children performing community service; and
- 28 (19) To adopt rules and regulations which:
- 29 (i) For the twelve (12) month period beginning on October 1, 1983, and for each
30 subsequent twelve (12) month period, establish specific goals as to the maximum number of
31 children who will remain in foster care for a period in excess of two (2) years; and
- 32 (ii) Are reasonably necessary to implement the child welfare services and foster care
33 programs;
- 34 (20) May establish and conduct seminars for the purpose of educating children regarding

1 sexual abuse;

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

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

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

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

21 In fulfilling its responsibilities the department shall:

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

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

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

29 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of
30 seriously emotionally disturbed children and children with functional developmental disabilities
31 and to work with private agencies serving those children;

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

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

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

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

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

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

22 (a) Is attributable to a mental or physical impairment or combination of mental physical
23 impairments;

24 (b) Is manifested before the person attains age eighteen (18);

25 (c) Is likely to continue indefinitely;

26 (d) Results in age- appropriate substantial functional limitations in three (3) or more of
27 the following areas of major life activity.

28 (i) Self-care;

29 (ii) Receptive and expressive language;

30 (iii) Learning;

31 (iv) Mobility;

32 (v) Self-direction;

33 (vi) Capacity for Independent Living; and

34 (vii) Economic self-sufficiency; and

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

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

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

17 (26) To develop and maintain, in collaboration with other state and private agencies, a
18 comprehensive continuum of care in this state for children in the care and custody of the
19 department or at risk of being in state care. This continuum of care should be family-centered and
20 community-based with the focus of maintaining children safely within their families or, when a
21 child cannot live at home, within as close proximity to home as possible based on the needs of the
22 child and resource availability. The continuum should include community-based prevention,
23 family support and crisis intervention services as well as a full array of foster care and residential
24 services, including residential services designed to meet the needs of children who are seriously
25 emotionally disturbed, children who have a functional developmental disability and youth who
26 have juvenile justice issues. The director shall make reasonable efforts to provide a
27 comprehensive continuum of care for children in the care and custody of the DCYF, taking into
28 account the availability of public and private resources and financial appropriations and the
29 director shall submit an annual report to the general assembly as to the status of his or her efforts
30 in accordance with the provisions of subsection 42-72-4(b)(13).

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

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

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

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

5 SECTION 2. Chapter 42-72 of the General Laws entitled "Department of Children,
6 Youth, and Families" is hereby amended by adding thereto the following section:

7 **42-72-5.3. Protect children from sexual abuse and assault.** -- (a) The department of
8 children, youth, and families (DCYF), the office of child advocate (OCA), the state police, local
9 police chiefs, and the department of attorney general shall cooperate to develop an expedited
10 process for investigating complaints of sexual abuse or assault involving children.

11 (b) No later than February 1, 2010, the director of the department of children, youth, and
12 families shall present a report on this process and its implementation to the governor, the speaker
13 of the house of representatives and the president of the senate that ensures prompt, objective, and
14 thorough investigation of complaints involving such sexual abuse or assault.

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

1 This act would require the adoption of new regulations and impose new reporting
2 requirements within department of children, youth, and families (DCYF) to improve
3 accountability relating to sexual abuse of children.

4 This act would take effect upon passage.

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