

2011 -- H 5863

LC02001

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

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

Introduced By: Representatives Marcello, DaSilva, and Blazejewski

Date Introduced: March 08, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-72-15 of the General Laws in Chapter 42-72 entitled
2 "Department of Children, Youth, and Families" is hereby amended to read as follows:

3 **42-72-15. Children's bill of rights.** -- (a) No child placed or treated under the
4 supervision of the department in any public or private facility shall be deprived of any personal
5 property or civil rights, except in accordance with due process.

6 (b) Each child placed or treated under the supervision of the department in any public or
7 private facility shall receive humane and dignified treatment at all times, with full respect for the
8 child's personal dignity and right to privacy, consistent with the child's treatment plan. Each child
9 shall be guaranteed constitutional rights at all times.

10 (c) Each child placed in a secure facility under the supervision of the department shall be
11 permitted to communicate with any individual, group, or agency consistent with the child's
12 treatment objectives; shall be provided writing materials and postage; and shall be permitted to
13 make or receive telephone calls to or from his or her attorneys, guardians ad litem, special
14 advocates, or child advocate at any reasonable time. No child shall be prevented from contacting
15 an attorney, the courts, the clergy, or law enforcement during business hours or an emergency
16 situation.

17 ~~(d) The department shall adopt rules and regulations pursuant to the Administrative~~
18 ~~Procedures Act, title 42, chapter 35, regarding children placed in secure facilities to specify the~~

1 following:

2 ~~(1) When a child may be placed in restraint or seclusion or when force may be used upon~~
3 ~~a child;~~

4 ~~(2) When the head of a facility may limit the use or receipt of mail by any child and a~~
5 ~~procedure for return of unopened mail; and~~

6 ~~(3) When the head of a facility may restrict the use of a telephone by any child.~~

7 (d)(e) A copy of any order placing a child at a secure facility under the supervision of the
8 department in restraint or seclusion shall be made a part of the child's permanent clinical record.
9 In addition, any special restriction on the use or receipt of mail or telephone calls shall be noted in
10 writing, signed by the head of the facility or the facility head's designee, and made a part of the
11 child's permanent clinical record.

12 (e)(f) Each child placed or treated in a secure facility under the supervision of the
13 department shall be permitted to receive visitors subject to reasonable restriction consistent with
14 the child's treatment plan. The head of each facility shall establish visiting hours and inform all
15 children and their families and other visitors of these hours. Any special restrictions shall be
16 noted in writing, signed by the head of the facility or his or her designee, and made a part of the
17 child's permanent clinical record. Each child shall be permitted to correspond with visitors to
18 schedule these visitation hours.

19 (f)(g) Each child may receive his or her clergyman, attorney, guardian ad litem, special
20 advocate, or child advocate at any reasonable time. and each child may initiate an appointment
21 with the clergyman, attorney, guardian ad litem, special advocate, or child advocate at any
22 reasonable time via telephone, postal mail, or electronic mail.

23 (g)(h) No person shall be denied employment, housing, civil service rank, any license or
24 permit, including a professional license, or any other civil or legal right, solely because of a
25 present or past placement with the department except as otherwise provided by statute.

26 (h)(i) Each child under the supervision of the department shall have the right to counsel,
27 and the right to receive visits from physicians and mental health professionals. and each child has
28 the right to contact any attorney, physician, or mental health professional via telephone, postal
29 mail, or electronic mail.

30 (i)(j) Each child shall have a right to a hearing pursuant to rules and regulations
31 promulgated by the department if the child is ~~involuntarily~~ transferred by the department to any
32 facility outside of the state in accordance with the procedure set forth in section 42-72-14.

33 (j)(k) The children's bill of rights shall be ~~posted in a conspicuous place within any~~
34 ~~secure facility for the residential housing of children~~ distributed to each child upon entrance into

1 any department facility in language consistent with the child's comprehension.

2 (k)(+) Every deliverer of services with whom the department enters into a purchased
3 services agreement shall agree, in writing, to observe and post in a conspicuous place, the
4 children's bill of rights: and each child shall receive a physical copy of said rights consistent with
5 the child's comprehension.

6 (l)(+) Any child aggrieved by a violation of the children's bill of rights may petition the
7 family court for appropriate equitable relief. The family court shall have exclusive original
8 jurisdiction, notwithstanding any remedy contained in chapter 35 of this title. Each child has the
9 right to appeal the family court's decision in the supreme court.

10 (m)(+) A child victim or witness shall be afforded the protections of section 12-28-9
11 under the direction of the department of children, youth, and families, and the department shall
12 advise the court and the police and the prosecutor on the capacity of the child victim to
13 understand and participate in the investigation and in the court proceedings and of the potential
14 effect of the proceedings on the child.

15 (n)(+) Every child placed in the care of the department of children, youth, and families
16 shall be entitled to a free appropriate education, in accordance with state and federal law.
17 Immediately upon the assumption of that care, the department shall provide for the enrollment of
18 each child in a school program. During the time that the child shall remain in that care, the
19 department and appropriate state and local education agencies shall coordinate their efforts in
20 order to provide for the timely initiation and continuation of educational services.

21 (o)(+) No person shall be denied access to available treatment for an alcohol or drug
22 related condition, solely because of a present or past placement with the department.

23 SECTION 2. 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 guarantee the constitutional, personal property, and civil rights of every
2 child placed or treated under the supervision of the department of children, youth, and families in
3 any public or private facility.

4 This act would take effect upon passage.

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