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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 Shekarchi, Serpa, McNamara, Ajello, and Tanzi

Date Introduced: February 26, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 14-1-11 of the General Laws in Chapter 14-1 entitled "Proceedings
2 in Family Court" is hereby amended to read as follows:

3 **14-1-11. Authorizing and filing petition.** -- (a) The filing of the petition constitutes
4 assumption of jurisdiction over the child. Filing shall take place upon authorization by the intake
5 department upon completion of its procedures pursuant to Rule 3 of the Rules of Juvenile
6 Proceedings, upon authorization by a justice of the family court pursuant to Rule 4 of the Rules of
7 Juvenile Proceedings, or immediately upon appearance of the child before the court following
8 emergency detention, unless the court otherwise orders.

9 (b) In the event that a petition is filed, any appropriate person having knowledge,
10 information, or belief of the material facts that appear to warrant a petition may be a petitioner
11 under this chapter and is not required to give recognizance or surety for costs. The petition shall
12 be directed to the family court of the state of Rhode Island, setting forth that in the opinion of the
13 petitioner the child is a delinquent, wayward, dependent, or neglected child, or otherwise comes
14 within the provisions of this chapter, and requires the care and protection of the state, and all
15 petitions, with the exception of those requesting the arrest and/or detention of any person, shall be
16 sworn to before a licensed notary public. Those exceptions, as stated above, shall be sworn to by
17 either a justice or clerk of the family court.

18 (c) No child shall be ordered detained at the training school unless there is pending

1 against the child a petition setting forth facts which would constitute a felony or misdemeanor if
2 committed by an adult ~~or which alleges a violation of a valid court order~~, or unless the child is
3 adjudged in contempt of court. In the event a child is ordered to be detained at the training school,
4 the family court shall conduct a probable cause hearing within five (5) calendar days of the child's
5 detention (exclusive of weekends and/or holidays). At the conclusion of the probable cause
6 hearing, the court shall order the release of the child from the training school unless the court
7 finds that the child poses a substantial risk of harm to self or to others.

8 Nothing in this section prohibits the temporary commitment by the family court to the
9 department of children, youth, and families for placement of a child in a specific facility or
10 program other than the training school for youth.

11 (d) The department of children, youth and families, in consultation with law enforcement
12 agencies, the attorney general, the office of the public defender and the family court, shall
13 develop and implement a detention risk assessment instrument by no later than July 1, 2009.

14 (e) No child shall be placed in detention at the training school unless a determination is
15 made by the family court that the child poses a substantial risk of harm to self or to others.

16 (f) No petition alleging that a child is wayward by virtue of disobedient behavior may be
17 filed except upon proof offered in the petition that the child has been subjected to a needs
18 assessment conducted at a facility approved by the director of the department of children, youth
19 and families, and that a treatment plan resulting from that assessment has been unsuccessful.

20 (g) The director of the department of children, youth and families is authorized and
21 directed to promulgate any rules and regulations that it deems necessary to implement the
22 provisions and purposes of this section.

23 SECTION 2. Section 14-1-32 of the General Laws in Chapter 14-1 entitled "Proceedings
24 in Family Court" is hereby amended to read as follows:

25 **14-1-32. Power of court to order disposition of child.** -- If the court finds that a child is
26 delinquent, wayward, neglected, dependent, or otherwise within the provisions of this chapter, it
27 may by order duly entered proceed as follows:

28 (1) The court may place the child on probation or under supervision in his or her own
29 home or in the custody of a relative or other suitable person, or in the custody of the director of
30 children, youth and families, upon any terms the court determines. Nothing in this section shall
31 prohibit the placement of a child in any facility licensed or approved by another department of
32 state government, upon any terms that the court shall determine; provided, that if the court finds
33 that a child is delinquent or wayward for any offense which has resulted in damage to the
34 property of another, then the court may order that appropriate monetary restitution be made

1 immediately to the owner of the damaged property by the child, his or her parent, parents, or
2 guardian or other lawful custodian, upon examination and after a finding that the child, or his or
3 her parent, parents, or guardian or other lawful custodian, has the ability to pay restitution.

4 (2) The court may order the child to engage in community restitution at a state or
5 municipal agency or department in addition to or in lieu of restitution, for a period of time to be
6 determined by the court.

7 (3) The court may order the parent or parents of the child to undertake a program of
8 counseling, which program shall be designed to attempt to remedy those conditions which led to
9 the child's coming before the court.

10 (4) The court may, by order duly entered, prior to a finding that a child is delinquent,
11 wayward, neglected, dependent, or otherwise within the provisions of this chapter, place the
12 petition on file. The court may, in its discretion, attach conditions to the petition. ~~The conditions~~
13 ~~shall be a valid court order.~~ If no action is taken on the petition for a period of one year or less, if
14 so ordered, following the filing, the authorization issuing the petition shall be revoked by the
15 clerk and the petition shall be closed.

16 (5) The court may, after a hearing on either a stenographic or tape recorded record, and
17 after also considering any need of the juvenile and/or the juvenile's family for the juvenile to have
18 a driver's license, the relative benefits of the juvenile retaining or losing driving privileges, and
19 whether any circumstances in the school environment or educational services are adversely
20 affecting the juvenile's school attendance deny, revoke, suspend and/or reinstate a juvenile's
21 driving privileges including both the learning license and/or driver's license of any juvenile
22 deemed wayward as a result of the family court finding the child truant pursuant to chapter 19 of
23 title 16 and/or wayward/delinquent.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would prohibit the detention of juveniles at the Rhode Island Training School
2 based on allegations that he or she was in violation of a court order and would further not classify
3 conditions placed on a juvenile when a petition is placed on file, as a valid court order.

4 This act would take effect upon passage.

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