

2016 -- S 2947 AS AMENDED

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LC005892
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO HUMAN SERVICES -- ABUSED AND NEGLECTED CHILDREN

Introduced By: Senator Maryellen Goodwin

Date Introduced: May 10, 2016

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-11-2 of the General Laws in Chapter 40-11 entitled "Abused and
2 Neglected Children" is hereby amended to read as follows:

3 **40-11-2. Definitions.** -- When used in this chapter and unless the specific context
4 indicates otherwise:

5 (1) "Abused and/or neglected child" means a child whose physical or mental health or
6 welfare is harmed or threatened with harm when his or her parent or other person responsible for
7 his or her welfare:

8 (i) Inflicts or allows to be inflicted upon the child physical or mental injury, including
9 excessive corporal punishment; or

10 (ii) Creates or allows to be created a substantial risk of physical or mental injury to the
11 child, including excessive corporal punishment; or

12 (iii) Commits or allows to be committed, against the child, an act of sexual abuse; or

13 (iv) Fails to supply the child with adequate food, clothing, shelter, or medical care,
14 though financially able to do so or offered financial or other reasonable means to do so; or

15 (v) Fails to provide the child with a minimum degree of care or proper supervision or
16 guardianship because of his or her unwillingness or inability to do so by situations or conditions
17 such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or
18 alcohol to the extent that the parent or other person responsible for the child's welfare loses his or
19 her ability or is unwilling to properly care for the child; or

1 (vi) Abandons or deserts the child; or

2 (vii) Sexually exploits the child in that the person allows, permits or encourages the child
3 to engage in prostitution as defined by the provisions in § 11-34.1-1 et seq., entitled "Commercial
4 Sexual Activity"; or

5 (viii) Sexually exploits the child in that the person allows, permits, encourages or
6 engages in the obscene or pornographic photographing, filming or depiction of the child in a
7 setting which taken as a whole suggests to the average person that the child is about to engage in
8 or has engaged in, any sexual act, or which depicts any such child under eighteen (18) years of
9 age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

10 (ix) Commits or allows to be committed any sexual offense against the child as such
11 sexual offenses are defined by the provisions of chapter 37 of title 11, entitled "Sexual Assault",
12 as amended; or

13 (x) Commits or allows to be committed against any child an act involving sexual
14 penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen
15 (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator
16 knows or has reason to know that the victim is a severely impaired person as defined by the
17 provisions of § 11-5-11, or physically helpless as defined by the provisions of § 11-37-6.

18 (2) "Child" means a person under the age of eighteen (18).

19 (3) "Child protective investigator" means an employee of the department charged with
20 responsibility for investigating complaints and/or referrals of child abuse and/or neglect and
21 institutional child abuse and/or neglect.

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

23 (5) "Educational program" means any public or private school, including boarding
24 schools, or any home schooling program.

25 ~~(5)~~(6) "Institution" means any private or public hospital or other facility providing
26 medical and/or psychiatric diagnosis, treatment, and care.

27 ~~(6)~~(7) "Institutional child abuse and neglect" means situations of known or suspected
28 child abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster
29 parent or the employee of a public or private residential child care institution or agency; or any
30 staff person providing out-of-home care or situations where the suspected abuse or neglect occurs
31 as a result of the institution's practices, policies, or conditions.

32 ~~(7)~~(8) "Law enforcement agency" means the police department in any city or town
33 and/or the state police.

34 ~~(8)~~(9) "Mental injury" includes a state of substantially diminished psychological or

1 intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability
2 to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior,
3 including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury
4 must be clearly attributable to the unwillingness or inability of the parent or other person
5 responsible for the child's welfare to exercise a minimum degree of care toward the child.

6 ~~(9)~~(10) "Person responsible for child's welfare" means the child's parent, guardian, any
7 individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian
8 and has unsupervised access to a child, foster parent, an employee of a public or private
9 residential home or facility, or any staff person providing out-of-home care (out-of-home care
10 means child day care to include family day care, group day care, and center-based day care).
11 Provided further that an individual, eighteen (18) years of age or older, who resides in the home
12 of a parent or guardian and has unsupervised access to the child, shall not have the right to
13 consent to the removal and examination of the child for the purposes of § 40-11-6.

14 ~~(10)~~(11) "Physician" means any licensed doctor of medicine, licensed osteopathic
15 physician, and any physician, intern, or resident of an institution as defined in subdivision (5).

16 ~~(11)~~(12) "Probable cause" means facts and circumstances based upon as accurate and
17 reliable information as possible that would justify a reasonable person to suspect that a child is
18 abused or neglected. The facts and circumstances may include evidence of an injury or injuries,
19 and the statements of a person worthy of belief, even if there is no present evidence of injury.

20 ~~(12)~~(13) "Shaken baby syndrome" means a form of abusive head trauma, characterized
21 by a constellation of symptoms caused by other than accidental traumatic injury resulting from
22 the violent shaking of and/or impact upon an infant or young child's head.

23 SECTION 2. Chapter 40-11 of the General Laws entitled "Abused and Neglected
24 Children" is hereby amended by adding thereto the following section:

25 **40-11-3.3. Duty to report -- Sexual abuse of a child in an educational program. – (a)**
26 Any person who has reasonable cause to know or suspect that any child has been the victim of
27 sexual abuse by an employee, agent, contractor or volunteer of an educational program as defined
28 in §40-11-2 shall, within twenty-four (24) hours, transfer that information to the department of
29 children, youth and families or its agent who shall immediately forward the report to state police
30 and local law enforcement, and shall initiate an investigation of the allegations of sexual abuse.
31 As a result of those reports and referrals, the department shall refer those children to appropriate
32 services and support systems in order to provide for their health and welfare. In the event the
33 department substantiates the allegations of sexual abuse against an employee, agent, contractor or
34 volunteer of an educational program, the department shall immediately notify the state police,

1 [local law enforcement agency, the department of education, the educational program, the person](#)
2 [who is the subject of the investigation, and the parent or parents of the child who is alleged to be](#)
3 [the victim of the sexual abuse of the department's findings.](#)

4 [\(b\) The director is authorized to promulgate rules and regulations in order to carry out the](#)
5 [intent of this section.](#)

6 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 HUMAN SERVICES -- ABUSED AND NEGLECTED CHILDREN

1 This act would require the reporting of any sexual abuse of a child by an employee,
2 agent, contractor or volunteer of an education program defined in the Rhode Island general laws.

3 This act would take effect upon passage.

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