

2017 -- H 5733

=====
LC001966
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

—————
A N A C T

RELATING TO HUMAN SERVICES - ABUSED AND NEGLECTED CHILDREN

Introduced By: Representatives McEntee, Shekarchi, Knight, McKiernan, and Craven

Date Introduced: March 01, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-11-14 of the General Laws in Chapter 40-11 entitled "Abused
2 and Neglected Children" is hereby amended to read as follows:

3 **40-11-14. Right to representation in court proceedings.**

4 Any child who, is alleged to be abused or neglected as a subject of a petition filed in
5 family court under this chapter, shall have a guardian ad litem ~~and/or a court appointed special~~
6 ~~advocate~~ appointed by the court to represent this child, ~~all in the discretion of the court.~~ A
7 volunteer court-appointed special advocate may be assigned to assist the guardian ad litem,
8 provided the volunteer participates in training offered by the court-appointed special advocate's
9 office and submits a satisfactory department of children, youth and families (DCYF) clearance
10 and nationwide criminal background check. If the parent or other person responsible for the
11 child's care is financially unable to engage counsel as determined by the court, the court may, at
12 the request of that person, and in its discretion, appoint the public defender, or other council, to
13 represent the person. The cost of other counsel in those instances shall be paid by the state. In
14 every court proceeding under this chapter in which it is a party, the department shall be
15 represented by its legal counsel.

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

18 **42-72-5. Powers and scope of activities.**

19 (a) The department is the principal agency of the state to mobilize the human, physical,

1 and financial resources available to plan, develop, and evaluate a comprehensive and integrated
2 statewide program of services designed to ensure the opportunity for children to reach their full
3 potential. The services include prevention, early intervention, outreach, placement, care and
4 treatment, and after-care programs; provided, however, that the department notifies the state
5 police and cooperates with local police departments when it receives and/or investigates a
6 complaint of sexual assault on a minor and concludes that probable cause exists to support the
7 allegations(s). The department also serves as an advocate for the needs of children.

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

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

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

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

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

22 (5) To plan and initiate primary- and secondary-treatment programs for abused and
23 neglected children;

24 (6) To evaluate the services of the department and to conduct periodic, comprehensive-
25 needs assessment;

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

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

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

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

- 1 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to
2 chapter 11 of title 40;
- 3 (12) To promulgate all rules and regulations necessary for the execution of departmental
4 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;
- 5 (13) To provide and act as a clearinghouse for information, data, and other materials
6 relative to children;
- 7 (14) To initiate and carry out studies and analysis that will aid in solving local, regional,
8 and statewide problems concerning children;
- 9 (15) To represent and act on behalf of the state in connection with federal-grant programs
10 applicable to programs for children in the functional areas described in this chapter;
- 11 (16) To seek, accept, and otherwise take advantage of all federal aid available to the
12 department, and to assist other agencies of the state, local agencies, and community groups in
13 taking advantage of all federal grants and subventions available for children;
- 14 (17) To review and coordinate those activities of agencies of the state, and of any
15 political subdivision of the state, that affect the full and fair utilization of community resources
16 for programs for children, and initiate programs that will help ensure utilization;
- 17 (18) To administer the pilot, juvenile-restitution program, including the overseeing and
18 coordinating of all local, community-based restitution programs, and the establishment of
19 procedures for the processing of payments to children performing community service; and
- 20 (19) To adopt rules and regulations that:
- 21 (i) For the twelve-month (12) period beginning on October 1, 1983, and for each
22 subsequent twelve-month (12) period, establish specific goals as to the maximum number of
23 children who will remain in foster care for a period in excess of two (2) years; and
- 24 (ii) Are reasonably necessary to implement the child-welfare services and foster-care
25 programs;
- 26 (20) May establish and conduct seminars for the purpose of educating children regarding
27 sexual abuse;
- 28 (21) To establish fee schedules by regulations for the processing of requests from
29 adoption placement agencies for adoption studies, adoption study updates, and supervision related
30 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)
31 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);
- 32 (22) To be responsible for the education of all children who are placed, assigned, or
33 otherwise accommodated for residence by the department in a state-operated or -supported
34 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility, the

1 department is authorized to enroll and pay for the education of students in the public schools or,
2 when necessary and appropriate, to itself provide education in accordance with the regulations of
3 the board of regents for elementary and secondary education either directly or through contract;

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

7 (24) To be responsible for the delivery of appropriate mental health services to seriously,
8 emotionally disturbed children and children with functional, developmental disabilities.
9 Appropriate mental health services may include hospitalization, placement in a residential
10 treatment facility, or treatment in a community-based setting. The department is charged with the
11 responsibility for developing the public policy and programs related to the needs of seriously,
12 emotionally disturbed children and children with functional, developmental disabilities;

13 In fulfilling its responsibilities the department shall:

14 (i) Plan a diversified and comprehensive network of programs and services to meet the
15 needs of seriously, emotionally disturbed children and children with functional, developmental
16 disabilities;

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

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

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

24 (v) Promote the development of new resources for program implementation in providing
25 services to seriously, emotionally disturbed children and children with functional, developmental
26 disabilities.

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

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

34 "Seriously, emotionally disturbed child" means any person under the age of eighteen (18)

1 years, or any person under the age of twenty-one (21) years, who began to receive services from
2 the department prior to attaining eighteen (18) years of age and has continuously received those
3 services thereafter; who has been diagnosed as having an emotional, behavioral, or mental
4 disorder under the current edition of the Diagnostic and Statistical Manual and that disability has
5 been on-going for one year or more or has the potential of being ongoing for one year or more;
6 and the child is in need of multi-agency intervention; and the child is in an out-of-home
7 placement or is at risk of placement because of the disability.

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

12 The term "functional, developmental disability" includes autism spectrum disorders and
13 means a severe, chronic disability of a person that:

14 (A) Is attributable to a mental or physical impairment or combination of mental physical
15 impairments;

16 (B) Is manifested before the person attains age eighteen (18);

17 (C) Is likely to continue indefinitely;

18 (D) Results in age-appropriate, substantial, functional limitations in three (3) or more of
19 the following areas of major life activity.

20 (I) Self-care;

21 (II) Receptive and expressive language;

22 (III) Learning;

23 (IV) Mobility;

24 (V) Self direction;

25 (VI) Capacity for independent living; and

26 (VII) Economic self-sufficiency; and

27 (E) Reflects the person's need for a combination and sequence of special,
28 interdisciplinary, or generic care, treatment, or other services that are of life-long or extended
29 duration and are individually planned and coordinated.

30 Funding for these clients shall include funds that are transferred to the department of
31 human services as part of the managed health-care-program transfer. However, the expenditures
32 relating to these clients shall not be part of the department of human services' caseload estimated
33 for the semi-annual, caseload-estimating conference. The expenditures shall be accounted for
34 separately;

1 (25) To provide access to services to any person under the age of eighteen (18) years, or
2 any person under the age of twenty-one (21) years who began to receive child-welfare services
3 from the department prior to attaining eighteen (18) years of age, has continuously received those
4 services thereafter, and elects to continue to receive such services after attaining the age of
5 eighteen (18) years. The general assembly has included funding in the FY 2008 department of
6 children, youth and families budget in the amount of \$10.5 million from all sources of funds and
7 \$6.0 million from general revenues to provide a managed system to care for children serviced
8 between 18 to 21 years of age. The department shall manage this caseload to this level of funding;

9 (26) To initiate transition planning in cooperation with the department of behavioral
10 healthcare, developmental disabilities and hospitals and local school departments for any child
11 who receives services through the department of children, youth and families; is seriously,
12 emotionally disturbed or developmentally delayed pursuant to paragraph (b)(24)(v); and whose
13 care may or shall be administered by the department of behavioral healthcare, developmental
14 disabilities and hospitals after the age of twenty-one (21) years; the transition planning shall
15 commence at least twelve (12) months prior to the person's twenty-first birthday and shall result
16 in a collaborative plan submitted to the family court by both the department of behavioral
17 healthcare, developmental disabilities and hospitals and the department of children, youth and
18 families and shall require the approval of the court prior to the dismissal of the abuse, neglect,
19 dependency, or miscellaneous petition before the child's twenty-first birthday;

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

34 (28) To administer funds under the John H. Chafee Foster Care Independence and

1 Educational and Training Voucher (ETV) Programs of Title IV-E of the Social Security Act [42
2 U.S.C. § 677] and the department of children, youth and families higher education opportunity
3 grant program as outlined in chapter 72.8 of title 42, in accordance with rules and regulations as
4 promulgated by the director of the department; and

5 (29) To process nationwide, criminal-record checks on prospective foster parents and any
6 household member age 18 or older, prospective adoptive parents and any household member age
7 18 and older, operators of child-care facilities, [persons seeking to act as volunteer court-appointed](#)
8 [special advocates](#), persons seeking employment in a child-care facility or at the training school
9 for youth or on behalf of any person seeking employment at the department of children, youth
10 and families, who are required to submit to nationwide, criminal-background checks as a matter
11 of law.

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

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

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

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

=====
LC001966
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES - ABUSED AND NEGLECTED CHILDREN

1 This act would require all CASA (court-appointed special advocate) volunteers to first
2 pass department of children, youth and families (DCYF) clearance as well as a national criminal
3 background check before qualifying for appointment by the court.

4 This act would take effect upon passage.

=====
LC001966
=====