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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. Sections 14-1-27 and 14-1-36 of the General Laws in Chapter 14-1 entitled
2 "Proceedings in Family Court" are hereby amended to read as follows:
3 **14-1-27. Temporary detention in public or private institutions.** -- (a) Subject to § 14-
4 1-11, provision may be made by the family court for the temporary detention of children at the
5 training school for youth or in the custody of the director of the department of children, youth and
6 families. Provided, the family court shall not detain any juvenile twelve (12) years of age or
7 younger at the training school for any offense unless that offense, if charged as an adult, would
8 constitute a felony capital offense for which bail would not be granted, or for any sexual offense
9 which would constitute a felony if charged as an adult. Should a juvenile twelve (12) years of age
10 or younger be charged with an offense for which if charged as an adult would constitute a capital
11 offense, or for any sexual offense which would constitute a felony if charged as an adult, the
12 family court shall not order the detention of the juvenile at the training school unless the court
13 determines, in the court's judgment, that there are no other reasonable placement locations and/or
14 conditions that will ensure the safety of the juvenile or any other person or persons. The court
15 may authorize the temporary placement of children in private homes licensed and approved by
16 the department of children, youth, and families and subject to the supervision of the court, or may
17 arrange with any incorporated institution or agency licensed for child care, to receive for
18 temporary care children ordered detained by the court. Unless good cause is shown to delay the

1 commencement of the adjudicatory hearing, if a child is in detention, the family court shall
2 commence the adjudicatory hearing within thirty (30) calendar days from whichever of the
3 following events occurs latest: the date the petition is served on the child; or the date the child is
4 placed in detention. In all such cases, the family court shall conclude the adjudicatory hearing
5 within fifteen (15) calendar days of the commencement of the hearing unless good cause is shown
6 to extend an adjudicatory hearing beyond fifteen (15) calendar days.

7 (b) In any case wherein the attorney general files an application to waive and/or certify a
8 youth, the juvenile may be detained at the training school for a period not to exceed ninety (90)
9 days. In such cases, the department shall present to the family court a waiver report within forty-
10 five (45) calendar days. At the expiration of ninety (90) days, the attorney general's petition for
11 waiver and/or certification shall be decided by the family court, unless good cause is shown to
12 extend the time upon which the family court may render such a decision.

13 (c) When DCYF makes application to the court to take a child into temporary custody
14 due to allegations of abuse and/or neglect or dependency, DCYF shall have the duty to investigate
15 the possibility of placing the child or children with a fit and willing relative not residing with the
16 parents. DCYF shall conduct an assessment into the appropriateness of placement of the child or
17 children with the relative within thirty (30) days of the child's placement in the temporary custody
18 of DCYF. If the department determines that the relative is a fit and proper person to have
19 placement of the child, the child shall be placed with that relative, unless the particular needs of
20 the child make the placement contrary to the child's best interests. All placements with relatives
21 shall be subject to criminal records checks in accordance with § 14-1-34, foster care regulations
22 promulgated by DCYF, and interstate compact approval, if necessary.

23 (d) If DCYF proposes to place the child with a relative outside the state of Rhode Island,
24 DCYF shall notify the parent who shall have an opportunity to file an objection to the placement
25 with the family court within ten (10) days of receipt of the notice. A hearing shall be held before
26 the child is placed outside the state of Rhode Island.

27 (e) If the request of a relative for placement of a child or children is denied by DCYF,
28 that relative shall have the right to petition the court for review. The court shall within five (5)
29 days of the request conduct a hearing as to the suitability of temporary placement with the relative
30 and shall make any orders incident to placement that it deems meet and just.

31 (f) Whenever the court determines that permanent placement or adoption is in the best
32 interest of a child, a fit and willing relative who has been awarded placement of the child shall be
33 given priority over a non-relative, provided that the placement or adoption is in the best interest
34 of the child.

1 **14-1-36. Commitment of delinquent and wayward children.** -- (a) In all proceedings
2 under this chapter, the court may order a delinquent or wayward child to be committed to the
3 training school for youth for a sentence no longer than the youth's nineteenth birthday. Provided,
4 the family court shall not commit any juvenile twelve (12) years of age or younger to the training
5 school for any offense unless that offense, if charged as an adult, would constitute a felony capital
6 offense, or any sexual offense for which if charged as an adult would be a felony. Should a
7 juvenile twelve (12) years of age or younger be sentenced under an offense for which if sentenced
8 as an adult would constitute a capital offense, or for any sexual offense for which if charged as an
9 adult would be a felony, the family court shall not commit the juvenile to the training school
10 unless the court determines, in the court's judgment, that there are no other reasonable placement
11 locations and/or conditions that will ensure the safety of the juvenile or any other person or
12 persons. However, nothing contained in this section shall be construed to prohibit the placing of
13 any child in the custody of the department of children, youth and families or any other agency,
14 society, or institution, pursuant to § 14-1-32. The commitment of delinquent or wayward children
15 shall be by an order and all assignments of the custody of dependent, neglected, delinquent, or
16 wayward children to the state training school for youth or to the custody of the department of
17 children, youth and families or to any of the private institutions, agencies, or societies mentioned
18 in this chapter shall be by a decree signed by the justice of the court by whom the order or decree
19 is issued, and that order or decree shall be directed to any person that the court may designate,
20 and shall require that person to take the child and deliver him or her to the officer in charge of the
21 training school for youth or to the custody of the director of children, youth and families or of the
22 public or private institution, agency, or society, and the order or decree shall constitute the person
23 charged with it, while he or she has the order in his or her possession for service, an officer for all
24 purposes under this chapter, in any county of the state in which it may be necessary for him or her
25 to go. The person charged with carrying out the order or decree shall also deliver to the officer of
26 the public or private institution, agency, or society or to the training school for youth or the
27 director of children, youth and families a copy of the order or the decree signed by the justice of
28 the court issuing it, and subject to the provisions of this chapter, the officer and other authorities
29 in charge of the training school for youth or the director of children, youth and families or any
30 public or private institution, agency, or society shall hold the child according to the terms of any
31 other order or decree that may from time to time thereafter be issued by the court in relation to the
32 child.

33 (b) Whenever the court shall commit a child to the training school for youth or to the
34 director of children, youth and families or any other institution or agency, it shall transmit with

1 the order of commitment a summary of its information concerning the child.

2 SECTION 2. 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 limit the temporary detention at, or commitment to, the training school of
2 a juvenile twelve (12) years of age or younger based upon the nature of the offense which that
3 juvenile has been charged with or found delinquent of committing, such as a felony capital
4 offense or any sexual offense amounting to a felony.

5 This act would take effect upon passage.

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