

2014 -- S 3046

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- PROCEEDINGS IN  
FAMILY COURT

Introduced By: Senators Miller, Lynch, Jabour, Goodwin, and Cool Rumsey

Date Introduced: May 29, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 14-1-6 of the General Laws in Chapter 14-1 entitled "Proceedings  
2 in Family Court" is hereby amended to read as follows:  
3           **14-1-6. Retention of jurisdiction.** -- (a) When the court shall have obtained jurisdiction  
4 over any child prior to the child having attained the age of eighteen (18) years by the filing of a  
5 petition alleging that the child is wayward or delinquent pursuant to section 14-1-5, the child  
6 shall, except as specifically provided in this chapter, continue under the jurisdiction of the court  
7 until he or she becomes nineteen (19) years of age, unless discharged prior to turning nineteen  
8 (19). When the court shall have obtained jurisdiction over any child prior to the child's eighteenth  
9 (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the child is  
10 dependent, neglected ~~and or~~ abused pursuant to ~~sections §§~~ 14-1-5, ~~and~~ 40-11-7, or 42-72-14,  
11 including any child under the jurisdiction of the family court on petitions filed and/or pending  
12 before the court prior to July 1, 2007, the child shall, except as specifically provided in this  
13 chapter, continue under the jurisdiction of the court until he or she becomes eighteen (18) years of  
14 age; provided, that prior to a child turning eighteen (18) years of age, the court shall require the  
15 department of children, youth, and families to provide a description of the transition services  
16 afforded the child in placement or a detailed explanation as to the reason those services were not  
17 offered; including the youth's housing, health insurance, education and/or employment plan  
18 available mentors and continuing support services. The details of a youth's transition plan shall be

1 provided and approved by the court prior to the dismissal of a family court petition.

2 (b) Additionally, the department of children, youth and families shall work  
3 collaboratively with the department of behavioral healthcare, developmental disabilities and  
4 hospitals, in accordance with § 14-1-59 to provide the family court with a transition plan for those  
5 individuals who come under the court's jurisdiction pursuant to § 14-1-5 and who are seriously  
6 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(24)(v); this plan shall be  
7 a joint plan presented to the court by the department of children, youth and families and the  
8 department of behavioral healthcare, developmental disabilities and hospitals. The plan shall  
9 identify the specific placement for the youth, as well as include the behavioral healthcare,  
10 developmental disabilities and hospitals' community or residential service level, health insurance  
11 option, education plan, available mentors, continuing support services, workforce supports and  
12 employment services and shall be provided to the court at least twelve (12) months prior to  
13 discharge, and the court shall monitor the transition plan. In the instance when the department of  
14 behavioral healthcare, developmental disabilities and hospitals has not made timely referrals to  
15 placements the department of children, youth and families may initiate referrals to adult  
16 placements.

17 (c) Provided ~~provided~~ further that any youth who comes within the jurisdiction of the  
18 court by the filing of a wayward or delinquent petition based upon an offense which was  
19 committed prior to July 1, 2007, including youth who are adjudicated and committed to the  
20 Rhode Island Training School and who are placed in a temporary community placement as  
21 authorized by the family court, may continue under the jurisdiction of the court until he or she  
22 turns ~~twenty-one (21)~~ nineteen (19) years of age.

23 (d) The parent and/or guardian and/or Guardian ad litem of a child who is seriously  
24 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(24)(v) and who is before  
25 the court pursuant to §§ 14-1-5(1)(iii)--14-1-5 (1)(v), 40-11-7 or 42-72-14, shall be entitled to a  
26 transition hearing when his or her child reaches the age of twenty (20) and no appropriate plan or  
27 placement has been submitted to the court by the department of children, youth and families and  
28 the department of behavioral healthcare, developmental disabilities and hospitals. The family  
29 court shall require that an immediate transition plan be submitted if the following facts are found:

30 (1) No suitable placement and/or services have been identified for the child; or

31 (2) No suitable transition plan has been presented to the court addressing the levels of  
32 service appropriate to meet the needs of the child identified by the department of behavioral  
33 healthcare, developmental disabilities and hospitals; or

34 (3) No suitable health insurance, educational plan, available mentors, continuing support

1 [services, workforce supports and employment services have been provided.](#)

2 ~~(b)~~(e) In any case where the court shall not have acquired jurisdiction over any person  
3 prior to the person's eighteenth (18th) birthday by the filing of a petition alleging that the person  
4 had committed an offense, but a petition alleging that the person had committed an offense which  
5 would be punishable as a felony if committed by an adult has been filed before that person attains  
6 the age of nineteen (19) years of age, that person shall, except as specifically provided in this  
7 chapter, be subject to the jurisdiction of the court until he or she becomes nineteen (19) years of  
8 age, unless discharged prior to turning nineteen (19).

9 ~~(e)~~(f) In any case where the court shall not have acquired jurisdiction over any person  
10 prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that  
11 the person had committed an offense prior to the person attaining the age of eighteen (18) years  
12 which would be punishable as a felony if committed by an adult, that person shall be referred to  
13 the court which would have had jurisdiction over the offense if it had been committed by an adult.  
14 The court shall have jurisdiction to try that person for the offense committed prior to the person  
15 attaining the age of eighteen (18) years and, upon conviction, may impose a sentence not  
16 exceeding the maximum penalty provided for the conviction of that offense.

17 ~~(d)~~(g) In any case where the court has certified and adjudicated a child in accordance  
18 with the provisions of sections 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall  
19 encompass the power and authority to sentence the child to a period in excess of the age of  
20 nineteen (19) years. However, in no case shall the sentence be in excess of the maximum penalty  
21 provided by statute for the conviction of the offense.

22 ~~(e)~~(h) Nothing in this section shall be construed to affect the jurisdiction of other courts  
23 over offenses committed by any person after he or she reaches the age of eighteen (18) years.

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

26 **42-72-5. Powers and scope of activities.** -- (a) The department is the principal agency of  
27 the state to mobilize the human, physical and financial resources available to plan, develop, and  
28 evaluate a comprehensive and integrated statewide program of services designed to ensure the  
29 opportunity for children to reach their full potential. The services include prevention, early  
30 intervention, out-reach, placement, care and treatment, and after-care programs; provided,  
31 however, that the department notifies the state police and cooperates with local police  
32 departments when it receives and/or investigates a complaint of sexual assault on a minor and  
33 concludes that probable cause exists to support the allegations(s). The department also serves as  
34 an advocate for the needs of children.

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

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

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

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

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

15 (5) To plan and initiate primary and secondary treatment programs for abused and  
16 neglected children;

17 (6) To evaluate the services of the department and to conduct periodic comprehensive  
18 needs assessment;

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

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

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

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

28 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to  
29 chapter 11 of title 40;

30 (12) To promulgate all rules and regulations necessary for the execution of departmental  
31 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;

32 (13) To provide and act as a clearinghouse for information, data and other materials  
33 relative to children;

34 (14) To initiate and carry out studies and analysis which will aid in solving local,

1 regional and statewide problems concerning children;

2 (15) To represent and act on behalf of the state in connection with federal grant programs  
3 applicable to programs for children in the functional areas described in this chapter;

4 (16) To seek, accept, and otherwise take advantage of all federal aid available to the  
5 department, and to assist other agencies of the state, local agencies, and community groups in  
6 taking advantage of all federal grants and subventions available for children;

7 (17) To review and coordinate those activities of agencies of the state and of any  
8 political subdivision of the state which affect the full and fair utilization of community resources  
9 for programs for children, and initiate programs that will help assure utilization;

10 (18) To administer the pilot juvenile restitution program, including the overseeing and  
11 coordinating of all local community based restitution programs, and the establishment of  
12 procedures for the processing of payments to children performing community service; and

13 (19) To adopt rules and regulations which:

14 (i) For the twelve (12) month period beginning on October 1, 1983, and for each  
15 subsequent twelve (12) month period, establish specific goals as to the maximum number of  
16 children who will remain in foster care for a period in excess of two (2) years; and

17 (ii) Are reasonably necessary to implement the child welfare services and foster care  
18 programs;

19 (20) May establish and conduct seminars for the purpose of educating children regarding  
20 sexual abuse;

21 (21) To establish fee schedules by regulations for the processing of requests from  
22 adoption placement agencies for adoption studies, adoption study updates, and supervision related  
23 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)  
24 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);

25 (22) To be responsible for the education of all children who are placed, assigned, or  
26 otherwise accommodated for residence by the department in a state operated or supported  
27 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility the  
28 department is authorized to enroll and pay for the education of students in the public schools or,  
29 when necessary and appropriate, to itself provide education in accordance with the regulations of  
30 the board of regents for elementary and secondary education either directly or through contract;

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

34 (24) To be responsible for the delivery of appropriate mental health services to seriously

1 emotionally disturbed children and children with functional developmental disabilities.  
2 Appropriate mental health services may include hospitalization, placement in a residential  
3 treatment facility, or treatment in a community based setting. The department is charged with the  
4 responsibility for developing the public policy and programs related to the needs of seriously  
5 emotionally disturbed children and children with functional developmental disabilities.

6 In fulfilling its responsibilities the department shall:

7 (i) Plan a diversified and comprehensive network of programs and services to meet the  
8 needs of seriously emotionally disturbed children and children with functional developmental  
9 disabilities;

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

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

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

17 (v) Promote the development of new resources for program implementation in providing  
18 services to seriously emotionally disturbed children and children with functional developmental  
19 disabilities.

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

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

27 "Seriously emotionally disturbed child" means any person under the age of eighteen (18)  
28 years or any person under the age of twenty-one (21) years who began to receive services from  
29 the department prior to attaining eighteen (18) years of age and has continuously received those  
30 services thereafter who has been diagnosed as having an emotional, behavioral or mental disorder  
31 under the current edition of the Diagnostic and Statistical Manual and that disability has been on-  
32 going for one year or more or has the potential of being ongoing for one year or more, and the  
33 child is in need of multi-agency intervention, and the child is in an out-of-home placement or is at  
34 risk of placement because of the disability.

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

5 The term "functional developmental disability" includes autism spectrum disorders and  
6 means a severe, chronic disability of a person which:

7 (a) Is attributable to a mental or physical impairment or combination of mental physical  
8 impairments;

9 (b) Is manifested before the person attains age eighteen (18);

10 (c) Is likely to continue indefinitely;

11 (d) Results in age- appropriate substantial functional limitations in three (3) or more of  
12 the following areas of major life activity.

13 (i) Self-care;

14 (ii) Receptive and expressive language;

15 (iii) Learning;

16 (iv) Mobility;

17 (v) Self-direction;

18 (vi) Capacity for Independent Living; and

19 (vii) Economic self-sufficiency; and

20 (e) Reflects the person's need for a combination and sequence of special,  
21 interdisciplinary, or generic care, treatment, or other services which are of life-long or extended  
22 duration and are individually planned and coordinated.

23 Funding for these clients shall include funds that are transferred to the Department of  
24 Human Services as part of the Managed Health Care program transfer. However, the expenditures  
25 relating to these clients shall not be part of the Department of Human Services' Caseload  
26 estimated for the semi-annual Caseload Estimating Conference. The expenditures shall be  
27 accounted for separately.

28 (25) To provide access to services to any person under the age of eighteen (18) years or  
29 any person under the age of twenty-one (21) years who began to receive child welfare services  
30 from the department prior to attaining eighteen (18) years of age, has continuously received those  
31 services thereafter and elects to continue to receive such services after attaining the age of  
32 eighteen (18) years. The assembly has included funding in the FY 2008 Department of Children,  
33 Youth and Families budget in the amount of \$10.5 million from all sources of funds and \$6.0  
34 million from general revenues to provide a managed system to care for children serviced between

1 18 to 21 years of age. The department shall manage this caseload to this level of funding.

2 (26) To initiate transition planning in cooperation with the department of behavioral  
3 healthcare, developmental disabilities and hospitals for any person who receives services through  
4 the department of children, youth and families, is seriously emotionally disturbed or  
5 developmentally delayed pursuant to § 42-72-5(24)(v), and whose care may or shall be  
6 administered by the department of behavioral healthcare, developmental disabilities and hospitals  
7 after the age of twenty-one (21) years. The transition planning shall commence at least twelve  
8 (12) months prior to the person's twenty-first (21<sup>st</sup>) birthday and shall result in a collaborative  
9 plan submitted to the family court by both the department of behavioral healthcare,  
10 developmental disabilities and hospitals and the department of children, youth and families and  
11 shall require the approval of the court prior to the dismissal of the abuse, neglect, dependency or  
12 miscellaneous petition.

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

27 ~~(27)~~(28) To administer funds under the John H. Chafee Foster Care Independence and  
28 Educational And Training Voucher (ETV) Programs of Title IV-E of the Social Security Act, and  
29 the DCYF Higher Education Opportunity Grant Program as outlined in RIGL section 42-72.8, in  
30 accordance with rules and regulations as promulgated by the director of the department.

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

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

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



1 SECTION 3. Section 40.1-5.4-4 of the General Laws in Chapter 40.1-5.4 entitled  
2 "Division of Mental Health" is hereby amended to read as follows:

3 **40.1-5.4-4. Powers and duties of director of mental health, retardation and hospitals.**

4 == The director of mental health, retardation, and hospitals shall, subject to available  
5 appropriations, have the following powers and duties:

6 (1) To be responsible for planning and developing a complete, comprehensive and  
7 integrated statewide system of mental health services; provided that the department's highest  
8 priorities shall be to provide services to residents with serious mental illness, early and ongoing  
9 treatment and support for serious mental illness and research into the causes and treatment of  
10 serious mental illness in the development of the system, the department shall consult with all  
11 facilities and agencies, both public and private, concerned with the mental health of the residents  
12 of Rhode Island;

13 (2) To implement the system in cooperation with providers of mental health services;

14 (3) To coordinate the efforts of the department of mental health, retardation, and  
15 hospitals with those of other state departments and agencies, municipal governments as well as  
16 the federal government and private agencies concerned with and providing services for persons  
17 with serious mental illness;

18 (4) To be responsible for the administration of state operated facilities established for the  
19 diagnosis, care and rehabilitation of adults with serious mental illness and to ensure that there are  
20 adequate state facilities to provide these services;

21 (5) To have general supervision of all private facilities as that term is defined in section  
22 40.1-5-2(3) and to exercise the powers and duties provided for in section 40.1-5-1 et seq.;

23 (6) To establish standards in conformance with generally accepted professional practice  
24 and to provide technical assistance to all state supported diagnostic facilities, rehabilitation  
25 centers, community residences, community mental health centers, and other facilities for the  
26 persons with serious mental illness licensed by the department pursuant to section 40.1-24-1 et  
27 seq.;

28 (7) To monitor and inspect to insure compliance with the standards. Provided, however,  
29 that none of the foregoing shall be applicable to any of the facilities wholly within the control of  
30 any other department of state government;

31 (8) To stimulate research by public and private agencies, institutions of higher learning,  
32 and hospitals, in the interest of the elimination and amelioration of serious mental illness, and  
33 care and treatment of persons with serious mental illness;

34 (9) To provide funding to the various community agencies and private nonprofit

1 agencies, in amounts, which will enable adults with serious mental illness to receive services  
2 appropriate to their individual's needs;

3 (10) To take, hold and administer in trust for the state any grant, devise, gift or bequest  
4 made either to the state or to the department for the use of persons under its care or for the  
5 expenditure upon any work which the department is authorized to undertake;

6 (11) To establish and maintain a comprehensive program of community mental health  
7 services, utilizing the community mental health centers and other community mental health  
8 agencies and to establish standards for the development of these community programs;

9 (12) To exercise the powers and duties relating to community mental health centers in  
10 accordance with section 40.1-8.5-1 et seq.;

11 (13) To exercise the powers and duties relating to the licensing of community mental  
12 health facilities in accordance with section 40.1-24-1 et seq.;

13 (14) To consult with and assist the governor's council on behavioral health in accordance  
14 with the requirements of section 40.1-29;

15 (15) To exercise the powers and duties relating to care and treatment of forensic patients  
16 in accordance with section 40.1-5.3-1 et seq.;

17 (16) To cooperate with the department of corrections, the courts and local and state law  
18 enforcement authorities to ensure adequate, fair and humane treatment of persons with serious  
19 mental illness involved in the criminal justice system.

20 (17) To collaborate with the department of children, youth and families in the  
21 development of transition plans pursuant of § 42-72-5(b)(26) and with the department of  
22 elementary and secondary education in the development of transition plans for those children  
23 over the age of fourteen (14) years whose Individualized Education Program (IEP) indicates a  
24 need for services from the department of behavioral healthcare, developmental disabilities and  
25 hospitals after the age of twenty-one (21) years, and to submit those plans to the family court for  
26 review and approval.

27 (18) To initiate transition planning in cooperation with the department of children, youth  
28 and families for any person who receives services through the department of children, youth and  
29 families, is seriously emotionally disturbed or developmentally delayed pursuant § 42-72-  
30 5(24)(v), and whose care may or shall be administered by the department of behavioral  
31 healthcare, developmental disabilities and hospitals after the age of twenty-one (21) years. The  
32 transition planning shall commence at least twelve (12) months prior to the person's twenty-first  
33 (21<sup>st</sup>) birthday and shall result in a collaborative plan submitted to the family court by both  
34 behavioral healthcare, developmental disabilities and hospitals and the department of children,

1 [youth and families and shall require the approval of the court prior to the dismissal of the abuse,](#)  
2 [neglect, dependency or miscellaneous petition.](#)

3 ~~(17)~~(19) To act in the capacity of "state mental health authority" as that term has  
4 meaning for a coordination of state mental health planning and policy, and as it also relates to  
5 requirements set forth in pertinent federal mental health laws and regulations.

6 ~~(18)~~(20) To propose, review, and/or approve, as appropriate, proposals, policies, or plans  
7 involving insurance or managed care systems for mental health services in Rhode Island or those  
8 aimed at improving the overall mental health of Rhode Island residents when the proposals,  
9 policies or plans relate to the publicly administered integrated state mental health service system.

10 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- PROCEEDINGS IN  
FAMILY COURT

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1           This act would mandate the development of a transition plan by the department of  
2 children, youth and families for all children under the jurisdiction of the family court prior to the  
3 child turning eighteen (18) years of age addressing housing, health insurance, education,  
4 employment, mentors and continuing support services as well as children with educational,  
5 emotional or developmental disabilities under the department's care. The act would also limit  
6 jurisdiction of the family court over delinquent and wayward children up to age nineteen (19)  
7 rather than age twenty-one (21).

8           This act would take effect upon passage.

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