

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

Introduced By: Representatives Ranglin-Vassell, Donovan, Amore, Casimiro, and  
Carson

Date Introduced: February 15, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-72-3 and 42-72-5 of the General Laws in Chapter 42-72  
2 entitled "Department of Children, Youth and Families" are hereby amended to read as follows:

3 **42-72-3. Definitions.**

4 For the purposes of this chapter:

5 (1) "Advocate" means the child advocate or any of his or her agents, servants or  
6 employees as established pursuant to this title.

7 (2) "Child" or "children" means any person under the age of eighteen (18) years and any  
8 person over the age of eighteen (18) years and under the age of twenty-one (21) years who began  
9 to receive child welfare services from the department prior to attaining the age of eighteen (18)  
10 years; provided that children over the age of eighteen (18) and who continue to receive services  
11 from the department and/or who are defined as emotionally disturbed and/or as children with  
12 functional developmental disabilities as referenced in this section shall be considered "children"  
13 for all the purposes of this chapter.

14 (3) "Child abuse and neglect" is that term as defined in chapter 11 of title 40.

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

16 (5) "Director" means the director of children, youth and families, or his or her designee.

17 (6) "Regional service center" means the respective local or regional units established by  
18 the director.

1 (7) "Near fatality" means an act that, as certified by a physician, placed the child in  
2 serious or critical condition.

3 (8) "Infant" means any person under the age of twenty-four (24) months.

4 **42-72-5. Powers and scope of activities.**

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

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

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

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

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

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

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

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

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

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

34 (9) To promulgate rules and regulations concerning the confidentiality, disclosure, and

1 expungement of case records pertaining to matters under the jurisdiction of the department;

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

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

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

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

12 (14) To initiate and carry out studies and analysis that will aid in solving local, regional,  
13 and statewide problems concerning children;

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

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

19 (17) To review and coordinate those activities of agencies of the state, and of any  
20 political subdivision of the state, that affect the full and fair utilization of community resources  
21 for programs for children, and initiate programs that will help ensure utilization;

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

25 (19) To adopt rules and regulations that:

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

29 (ii) Are reasonably necessary to implement the child-welfare services and foster-care  
30 programs;

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

33 (21) To establish fee schedules by regulations for the processing of requests from  
34 adoption placement agencies for adoption studies, adoption study updates, and supervision related

1 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)  
2 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);

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

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

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

18 In fulfilling its responsibilities the department shall:

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

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

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

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

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

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

34 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at

1 least in accordance with rules and regulations to be adopted by the department, at least its average  
2 per-pupil cost for special education for the year in which placement commences, as its share of  
3 the cost of educational services furnished to a seriously, emotionally disturbed child pursuant to  
4 this section in a residential treatment program which includes the delivery of educational services.

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

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

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

19 (A) Is attributable to a mental or physical impairment or combination of mental physical  
20 impairments;

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

22 (C) Is likely to continue indefinitely;

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

25 (I) Self-care;

26 (II) Receptive and expressive language;

27 (III) Learning;

28 (IV) Mobility;

29 (V) Self direction;

30 (VI) Capacity for independent living; and

31 (VII) Economic self-sufficiency; and

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

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

6 (25) To provide access to services to any person under the age of eighteen (18) years, or  
7 any person under the age of twenty-one (21) years who began to receive child-welfare services  
8 from the department prior to attaining eighteen (18) years of age, has continuously received those  
9 services thereafter, and elects to continue to receive such services after attaining the age of  
10 eighteen (18) years, including, but not limited to, foster care. ~~The general assembly has included  
11 funding in the FY 2008 department of children, youth and families budget in the amount of \$10.5  
12 million from all sources of funds and \$6.0 million from general revenues to provide a managed  
13 system to care for children serviced between 18 to 21 years of age. The department shall manage  
14 this caseload to this level of funding;~~

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

26 (27) To develop and maintain, in collaboration with other state and private agencies, a  
27 comprehensive continuum of care in this state for children in the care and custody of the  
28 department or at risk of being in state care. This continuum of care should be family centered and  
29 community based with the focus of maintaining children safely within their families or, when a  
30 child cannot live at home, within as close proximity to home as possible based on the needs of the  
31 child and resource availability. The continuum should include community-based prevention,  
32 family support, and crisis-intervention services, as well as a full array of foster care and  
33 residential services, including residential services designed to meet the needs of children who are  
34 seriously, emotionally disturbed, children who have a functional, developmental disability, and

1 youth who have juvenile justice issues. The director shall make reasonable efforts to provide a  
2 comprehensive continuum of care for children in the care and custody of the department of  
3 children, youth and families, taking into account the availability of public and private resources  
4 and financial appropriations and the director shall submit an annual report to the general assembly  
5 as to the status of his or her efforts in accordance with the provisions of § 42-72-4(b)(13);

6 (28) To administer funds under the John H. Chafee Foster Care Independence and  
7 Educational and Training Voucher (ETV) Programs of Title IV-E of the Social Security Act [42  
8 U.S.C. § 677] and the department of children, youth and families higher education opportunity  
9 grant program as outlined in chapter 72.8 of title 42, in accordance with rules and regulations as  
10 promulgated by the director of the department; and

11 (29) To process nationwide, criminal-record checks on prospective foster parents and any  
12 household member age 18 or older, prospective adoptive parents and any household member age  
13 18 and older, operators of child-care facilities, persons seeking employment in a child-care  
14 facility or at the training school for youth or on behalf of any person seeking employment at the  
15 department of children, youth and families, who are required to submit to nationwide, criminal-  
16 background checks as a matter of law.

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

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

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

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

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1           This act would expand the definition of child for the purpose of eligibility to receive  
2 DCYF services, including foster care, to any person under the age of twenty-one (21) years who  
3 began to receive child welfare services from the DCYF prior to reaching age eighteen (18). It  
4 would repeal state funding limits.

5           This act would take effect upon passage.

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