

2017 -- H 5819

LC001332

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 Serpa, and Fellela

Date Introduced: March 02, 2017

Referred To: House Health, Education & Welfare

(DCYF)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 40-11-2 and 40-11-6 of the General Laws in Chapter 40-11  
2 entitled "Abused and Neglected Children" are hereby amended to read as follows:

3 **40-11-2. Definitions.**

4 When used in this chapter and unless the specific context 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 that 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 that depicts any such child under eighteen (18) years of age  
9 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 (6) "Health care provider" means any provider of health care services involved in the  
26 delivery or care of infants and/or care of children.

27 ~~(6)~~(7) "Institution" means any private or public hospital or other facility providing  
28 medical and/or psychiatric diagnosis, treatment, and care.

29 ~~(7)~~(8) "Institutional child abuse and neglect" means situations of known or suspected  
30 child abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster  
31 parent or the employee of a public or private residential child-care institution or agency; or any  
32 staff person providing out-of-home care or situations where the suspected abuse or neglect occurs  
33 as a result of the institution's practices, policies, or conditions.

34 ~~(8)~~(9) "Law-enforcement agency" means the police department in any city or town and/or

1 the state police.

2 ~~(9)~~(10) "Mental injury" includes a state of substantially diminished psychological or  
3 intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability  
4 to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior,  
5 including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury  
6 must be clearly attributable to the unwillingness or inability of the parent or other person  
7 responsible for the child's welfare to exercise a minimum degree of care toward the child.

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

16 ~~(11)~~(12) "Physician" means any licensed doctor of medicine, licensed osteopathic  
17 physician, and any physician, intern, or resident of an institution as defined in subdivision (6).

18 ~~(12)~~(13) "Probable cause" means facts and circumstances based upon as accurate and  
19 reliable information as possible that would justify a reasonable person to suspect that a child is  
20 abused or neglected. The facts and circumstances may include evidence of an injury, or injuries,  
21 and the statements of a person worthy of belief, even if there is no present evidence of injury.

22 ~~(13)~~(14) "Shaken-baby syndrome" means a form of abusive head trauma, characterized  
23 by a constellation of symptoms caused by other than accidental traumatic injury resulting from  
24 the violent shaking of and/or impact upon an infant or young child's head.

25 **40-11-6. Report by physicians of abuse or neglect. Report by physicians and health**  
26 **care providers of abuse or neglect.**

27 (a) When any physician, ~~or~~ duly certified registered nurse practitioner, or other health  
28 care provider is involved in the delivery or care of infants born with or identified as being  
29 affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a  
30 fetal alcohol spectrum disorder, or has cause to suspect that a child brought to him or her or  
31 coming to him or her for examination, care, or treatment, is an abused or neglected child as  
32 defined in this chapter, or when he or she determines that a child under the age of twelve (12)  
33 years is suffering from any sexually transmitted disease, he or she shall report the incident or  
34 cause a report thereof to be made to the department as provided in subsection (b).

1 (b) An immediate oral report shall be made by telephone or otherwise, to both the  
2 department and law enforcement agency, and shall be followed by a report, in writing, to the  
3 department and law enforcement agency explaining the extent and nature of the abuse or neglect  
4 the child is alleged to have suffered.

5 (c) The department, upon receipt of such a report by a person other than a physician or  
6 duly certified registered nurse practitioner alleging that a child has been physically abused, shall  
7 investigate the report, and if the investigation reveals evidence of injury or that the child has been  
8 the victim of sexual abuse, the department shall have the child examined by a licensed physician  
9 or duly certified registered nurse practitioner. Any child protective investigator shall, with or  
10 without the consent of the parent or other person responsible for the child's welfare, have the right  
11 to remove the child from the place where the child may be to secure the examination required by  
12 this subsection. Upon completion of the examination, it shall be mandatory for the physician or  
13 duly certified registered nurse practitioner to make a written report of his or her findings to the  
14 department.

15 (d) The department shall promulgate rules and regulations to implement the provisions of  
16 this section.

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

=====  
LC001332  
=====

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

\*\*\*

- 1           This act would require health care providers involved in the delivery and care of infants
- 2   to report cases of infants born with or affected by substance abuse.
- 3           This act would take effect upon passage.

=====  
LC001332  
=====