# 2020 -- S 2139

# STATE OF RHODE ISLAND

## IN GENERAL ASSEMBLY

## JANUARY SESSION, A.D. 2020

_____

## A N   A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - PRESERVATION OF FAMILIES
WITH DISABLED PARENT ACT

It is enacted by the General Assembly as follows:

1   SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND

2   GOVERNMENT" is hereby amended by adding thereto the following chapter:

3                                    CHAPTER 72.12

4               PRESERVATION OF FAMILIES WITH DISABLED PARENT ACT

5   **42-72.12-1. Findings.**

6   The general assembly finds as follows:

7   (1) Individuals with disabilities continue to face unfair, preconceived, and unnecessary

8   societal biases, as well antiquated attitudes, regarding their ability to successfully parent their

9   children;

10   (2) Because of these societal biases and antiquated attitudes, new parents with disabilities

11   may be unnecessarily referred to hospital social workers or the department of children, youth and

12   families for evaluation of their ability to provide care or a safe environment based solely on their

13   disability; and

14   (3) Children may unnecessarily be denied the opportunity to enjoy the experience of

15   living in loving homes with parents with disabilities or other caretakers with disabilities.

16   **42-72.12-2. Purpose.**

17   The purpose of this chapter is to protect the best interests of children parented by

18   individuals with disabilities, or children who could be parented by individuals with disabilities

through the establishment of procedural safeguards that require hospital, child protective services and judicial staff, to be educated regarding the Americans with Disabilities Act and the procedural and equal protection rights of parents with disabilities or prospective parents with disabilities in the context of child welfare, foster care, family law and adoption considerations.

**42-72.12-3. Rights of disabled parents.**

(a) A parent or prospective parent's disability shall not be presumed to have a detrimental impact on a child.

(b) A parent or prospective parent who has a disability must be treated on a case-by case-basis, consistent with facts and objective evidence and based on an individualized assessment of the possible risk to the child's health and safety;

(c) A disability of a parent of a newborn child shall not serve as the sole basis of referral to a hospital social worker for evaluation of parenting skills.

(d) A parent's disability shall not serve as the sole basis of a referral to the department of children, youth and families by a hospital neonatal unit.

(e) A parent's disability shall not serve as the sole basis for denial or restriction of visitation or custody in family or child welfare cases when the visitation or custody is determined to be otherwise in the best interest of the child by the court.

(f) A prospective parent's disability shall not serve as the sole basis for their denial of participation in public or private adoption when the adoption is determined to be otherwise in the best interest of the child.

(g) An individual's disability shall not serve as the sole basis for denial of foster care or guardianship, when the appointment is determined to be otherwise in the best interest of the child.

(h) The parent or prospective parent with a disability shall be entitled to supportive parenting services and any other reasonable efforts to preserve the family unit, except in those cases where reasonable efforts are not required under § 15-7-7. The family court may require that the supportive parenting services be put in place, with an opportunity to review the need for continuation of such service within a reasonable period of time. "Supportive parenting services" means services that may assist a parent or prospective parent with a disability in the effective use of techniques, technology, and other alternative methods to enable the parent or prospective parent to have an equal opportunity to discharge parental responsibilities as successfully as a parent who does not have disabilities.

(i) Provided however, nothing in this section shall impair the rights of the child, protective agency, or the court to deny placement of or visitation with the child, of a parent or prospective parent with a disability, if they pose a significant risk to the health and safety of the

1    child, that cannot be eliminated by reasonable accommodations.

2    SECTION 2. Chapter 40-11 of the General Laws entitled "Abused and Neglected

3    Children" is hereby amended by adding thereto the following section:

4    **40-11-19. Parents with disabilities.**

5    The department shall investigate reports of child abuse and neglect as mandated in this

6    chapter. A parent's disability, as defined in § 42-87-1, will not constitute sole grounds to initiate

7    an investigation or a finding of child abuse or neglect; provided, that nothing in this section shall:

8    (1) Prevent a child from being considered abused or neglected if a child is harmed or

9    threatened with harm as described in § 40-11-2; or

10    (2) Preclude the court from ordering the furnishing of supportive parenting services to

11    address any impending or actual danger to the child.

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

========
LC003417
========

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N   A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - PRESERVATION OF FAMILIES
WITH DISABLED PARENT ACT

***

1        This act would preclude the disability of a parent from serving as the sole basis for denial

2    or restriction in matters involving a child's welfare, foster care, family law, guardianship and

3    adoption. In addition, this act would prohibit an investigation of possible child abuse or neglect

4    based solely on a parent's disability, unless the child is considered to be abused, neglected or

5    threatened with harm.

6        This act would take effect upon passage.

========
LC003417
========