

2016 -- S 2626

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- JUVENILE
RESTORATIVE JUSTICE PILOT PROGRAM

Introduced By: Senators Lynch Prata, Lombardi, and Gallo

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Findings. The general assembly finds and declares all of the following:

2 (1) The principles of restorative justice, with their underlying rehabilitative goals should
3 be considered for incorporation into our juvenile justice proceedings.

4 (2) Restorative justice principles recognize the following societal needs:

5 (i) Community protection from delinquent conduct through a continuum of appropriate
6 responses that protects citizens and victims.

7 (ii) Accountability of the child through restoration of the losses experienced by the victim
8 and the community.

9 (iii) Competency development of the child through the provision of treatment, education,
10 and skill building needed for success in the community.

11 (3) Crime results in injury to the victim, the community, and the offender. Whenever
12 appropriate, the juvenile justice system should seek to repair those injuries, taking into account
13 the age, mental capacity, and developmental maturity of the child, the nature of the offense, and
14 the resources available to the child to accomplish the goals. Victims and communities should be
15 actively involved in helping to develop programs and services, and in ensuring accountability
16 through helping individual children to understand the impact of their actions. These activities
17 shall be pursued in a manner consistent with the child's right to due process and the right of
18 victims.

1 SECTION 2. Title 14 of the General Laws entitled "DELINQUENT AND DEPENDENT
2 CHILDREN" is hereby amended by adding thereto the following chapter:

3 CHAPTER 1.1

4 CHILD RESTORATIVE JUSTICE PILOT PROGRAM

5 **14-1.1-1. Family court restorative justice program requirements.** -- (a) The
6 restorative justice program shall be implemented through a restorative justice protocol developed
7 by the family court in conjunction with input from the prosecutor, public defender, probation
8 department, and, when possible, representatives from victims' groups, law enforcement,
9 community organizations and service providers, restorative justice groups, and clinicians with
10 expertise in adolescent development. The protocol shall address all of the following:

11 (1) Policies and protocols to be implemented in cases utilizing a restorative justice model.

12 (2) Particular offenses, or the criteria to determine those offenses, that shall be eligible or
13 ineligible for inclusion within the restorative justice program.

14 (3) The rights of children.

15 (4) Confidentiality issues.

16 (5) Timeliness for case processing.

17 (6) The roles of the court, prosecutor, and defense counsel in relation to the restorative
18 justice program.

19 (7) The process for evaluating compliance with the program.

20 (8) The process for handling any failure to adhere to the program.

21 (b) The program in each case shall seek to repair the harm to the victim, the child, and the
22 community caused by the behavior bringing the child before the family court. The program
23 requirements shall be tailored to the age, mental capacity, and developmental maturity of the
24 child, the nature of the offense, and the resources available to the child to accomplish the goals of
25 this chapter.

26 (c) Any delinquent or wayward child may be referred to a restorative justice program as
27 part of the court's order, unless the family court determines that the restorative justice program is
28 not in the best interest of the child, in which case the court shall provide for other appropriate
29 disposition of the case.

30 (d) Because of their serious nature, the following offenses shall not be eligible for
31 inclusion in the restorative justice program:

32 (i) Delinquent offenses involving murder, first degree sexual assault, first degree child
33 molestation, or assault with intent to commit murder.

34 (e) In order to participate in the restorative justice program, the child must,

1 notwithstanding a formal admission, accept responsibility for the offense and agree to cooperate
2 with the restorative justice process.

3 **14-1.1-2. Funding. --** No general fund monies shall be used to fund a pilot restorative
4 justice program adopted pursuant to this section. A restorative justice program shall be adopted
5 only after the family court has obtained funds for these purposes.

6 **14-1.1-3. Pilot program performance report. --** On or before July 1, 2018, the family
7 court shall report to the general assembly on the performance of the pilot restorative justice
8 program. The report shall, at a minimum, address all of the following:

9 (1) A statistical analysis of the outcomes of the pilot program, comparing recidivism rates
10 among participants in those programs with those of nonparticipants. This analysis shall consider
11 sustained violations of probation and new sustained petitions.

12 (2) A cost-benefit analysis of the adoption of restorative justice programs.

13 (3) A statistical analysis of satisfaction with the restorative justice programs on the part of
14 victims, offenders, and other parties in the cases involved.

15 (4) A comparative analysis of restitution collection and hours of community service
16 between offenders who participated in restorative justice programs and those who did not.

17 (5) The percentage of cases referred to restorative justice programs that were mediated to
18 completion as prescribed by the court.

19 (6) The percentage of eligible cases that were appropriately referred to a restorative
20 justice program.

21 SECTION 3. 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 -- JUVENILE
RESTORATIVE JUSTICE PILOT PROGRAM

1 This act would authorize the family court to create and implement a pilot child restorative
2 justice program to address the manner in which children charged with crimes have their cases
3 adjudicated.

4 This act would take effect upon passage.

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