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## ARTICLE 15

### RELATING TO CHILDREN AND FAMILIES

SECTION 1. Sections 14-1-3, 14-1-6 and 14-1-11.1 of the General Laws in Chapter 14-1 entitled "Proceedings in Family Court" are hereby amended to read as follows:

#### **14-1-3. Definitions.**

The following words and phrases when used in this chapter shall, unless the context otherwise requires, be construed as follows:

(1) "Adult" means a person eighteen (18) years of age or older, except that "adult" includes any person seventeen (17) years of age or older who is charged with a delinquent offense involving murder, first-degree sexual assault, first-degree child molestation, or assault with intent to commit murder, and that person shall not be subject to the jurisdiction of the family court as set forth in §§ 14-1-5 and 14-1-6 if, after a hearing, the family court determines that probable cause exists to believe that the offense charged has been committed and that the person charged has committed the offense.

(2) "Appropriate person", as used in §§ 14-1-10 and 14-1-11, except in matters relating to adoptions and child marriages, means and includes:

- (i) Any police official of this state, or of any city or town within this state;
- (ii) Any duly qualified prosecuting officer of this state, or of any city or town within this state;
- (iii) Any director of public welfare of any city or town within this state, or his or her duly authorized subordinate;
- (iv) Any truant officer or other school official of any city or town within this state;
- (v) Any duly authorized representative of any public or duly licensed private agency or institution established for purposes similar to those specified in § 8-10-2 or 14-1-2; or
- (vi) Any maternal or paternal grandparent, who alleges that the surviving parent, in those cases in which one parent is deceased, is an unfit and improper person to have custody of any child or children.

(3) "Child" means a person under eighteen (18) years of age.

(4) "The court" means the family court of the state of Rhode Island.

(5) "Delinquent", when applied to a child, means and includes any child who has committed

1 any offense that, if committed by an adult, would constitute a felony, or who has on more than one  
2 occasion violated any of the other laws of the state or of the United States or any of the ordinances  
3 of cities and towns, other than ordinances relating to the operation of motor vehicles.

4 (6) "Dependent" means any child who requires the protection and assistance of the court  
5 when his or her physical or mental health or welfare is harmed, or threatened with harm, due to the  
6 inability of the parent or guardian, through no fault of the parent or guardian, to provide the child  
7 with a minimum degree of care or proper supervision because of:

8 (i) The death or illness of a parent; or

9 (ii) The special medical, educational, or social-service needs of the child which the parent  
10 is unable to provide.

11 (7) "Justice" means a justice of the family court.

12 (8) "Neglect" means a child who requires the protection and assistance of the court when  
13 his or her physical or mental health or welfare is harmed, or threatened with harm, when the parents  
14 or guardian:

15 (i) Fails to supply the child with adequate food, clothing, shelter, or medical care, though  
16 financially able to do so or offered financial or other reasonable means to do so;

17 (ii) Fails to provide the child proper education as required by law; or

18 (iii) Abandons and/or deserts the child.

19 (9) "Wayward", when applied to a child, means and includes any child:

20 (i) Who has deserted his or her home without good or sufficient cause;

21 (ii) Who habitually associates with dissolute, vicious, or immoral persons;

22 (iii) Who is leading an immoral or vicious life;

23 (iv) Who is habitually disobedient to the reasonable and lawful commands of his or her  
24 parent or parents, guardian, or other lawful custodian;

25 (v) Who, being required by chapter 19 of title 16 to attend school, willfully and habitually  
26 absents himself or herself from school or habitually violates the rules and regulations of the school  
27 when he or she attends;

28 (vi) Who has, on any occasion, violated any of the laws of the state or of the United States  
29 or any of the ordinances of cities and towns, other than ordinances relating to the operation of motor  
30 vehicles; or

31 (vii) Any child under seventeen (17) years of age who is in possession of one ounce (1 oz.)  
32 or less of marijuana, as defined in § 21-28-1.02, and who is not exempted from the penalties  
33 pursuant to chapter 28.6 of title 21.

34 (10) "Young adult" means an individual who has attained the age of eighteen (18) years but

1 has not reached the age of twenty-one (21) years and was in the legal custody of the department on  
2 their eighteenth birthday pursuant to an abuse, neglect or dependency petition; or was a former  
3 foster child who was adopted or placed in a guardianship after attaining age sixteen (16).

4 (11) "Voluntary placement agreement for extension of care" means a written agreement  
5 between the state agency and a young adult who meets the eligibility conditions specified in §14-  
6 1-6(c), acting as their own legal guardian that is binding on the parties to the agreement. At a  
7 minimum, the agreement recognizes the voluntary nature of the agreement, the legal status of the  
8 young adult and the rights and obligations of the young adult, as well as the services and supports  
9 the agency agrees to provide during the time that the young adult consents to giving the department  
10 legal responsibility for care and placement.

11 (12) "Supervised independent living setting" means a supervised setting in which a young  
12 adult is living independently, that meets any safety and or licensing requirements established by  
13 the department for this population, and is paired with a supervising agency or a supervising worker,  
14 including, but not limited to, single or shared apartments or houses, host homes, relatives' and  
15 mentors' homes, college dormitories or other post-secondary educational or vocational housing. All  
16 or part of the financial assistance that secures an independent supervised setting for a young adult  
17 may be paid directly to the young adult if there is no provider or other child placing intermediary,  
18 or to a landlord, a college, or to a supervising agency, or to other third parties on behalf of the  
19 young adult in the discretion of the department.

20 ~~(10)~~ (13) The singular shall be construed to include the plural, the plural the singular, and  
21 the masculine the feminine, when consistent with the intent of this chapter.

22 ~~(11)~~ (14) For the purposes of this chapter, "electronic surveillance and monitoring devices"  
23 means any "radio frequency identification device (RFID)" or "global positioning device" that is  
24 either tethered to a person or is intended to be kept with a person and is used for the purposes of  
25 tracking the whereabouts of that person within the community.

26 **14-1-6. Retention of jurisdiction.**

27 (a) When the court shall have obtained jurisdiction over any child prior to the child having  
28 attained the age of eighteen (18) years by the filing of a petition alleging that the child is wayward  
29 or delinquent pursuant to § 14-1-5, the child shall, except as specifically provided in this chapter,  
30 continue under the jurisdiction of the court until he or she becomes nineteen (19) years of age,  
31 unless discharged prior to turning nineteen (19).

32 (b) When the court shall have obtained jurisdiction over any child prior to the child's  
33 eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the  
34 child is dependent, neglected, ~~and~~ or abused pursuant to §§ 14-1-5 and 40-11-7 or 42-72-14,

1 ~~including any child under the jurisdiction of the family court on petitions filed and/or pending~~  
2 ~~before the court prior to July 1, 2007,~~ the child shall, except as specifically provided in this chapter,  
3 continue under the jurisdiction of the court until he or she becomes eighteen (18) years of age;  
4 provided, that at least six (6) months prior to a child turning eighteen (18) years of age, the court  
5 shall require the department of children, youth and families to provide a description of the transition  
6 services including the child's housing, health insurance, education and/or employment plan,  
7 available mentors and continuing support services, including workforce supports and employment  
8 services afforded the child in placement or a detailed explanation as to the reason those services  
9 were not offered. As part of the transition planning, the child shall be informed by the department  
10 of the opportunity to voluntarily agree to extended care and placement by the department and legal  
11 supervision by the court until age twenty-one (21). The details of a child's transition plan shall be  
12 developed in consultation with the child, wherever possible, and approved by the court prior to the  
13 dismissal of an abuse, neglect, dependency, or miscellaneous petition before the child's twenty-first  
14 birthday.

15 (c) A child, who is in foster care on their eighteenth birthday due to the filing of a  
16 miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused  
17 pursuant to §§14-1-5, 40-11-7 or 42-72-14 may voluntarily elect to continue responsibility for care  
18 and placement from DCYF and to remain under the legal supervision of the court as a young adult  
19 until age twenty-one (21), provided:

20 (1) The young adult was in the legal custody of the department at age eighteen (18); or

21 (2) Was a former foster child who was adopted or placed in a guardianship with an adoption  
22 assistance agreement that was effective upon attaining age sixteen (16); and

23 (3) The young adult is participating in at least one of the following:

24 (i) Completing the requirements to receive a high school diploma or GED;

25 (ii) Completing a secondary education or a program leading to an equivalent credential;  
26 enrolled in an institution that provides post-secondary or vocational education;

27 (iii) Participating in a job training program or an activity designed to promote or remove  
28 barriers to employment;

29 (iv) Be employed for at least eighty (80) hours per month; or

30 (v) Incapable of doing any of the foregoing due to a medical condition that is regularly  
31 updated and documented in the case plan;

32 (4) Upon the request of the young adult, the court's legal supervision and the department's  
33 responsibility for care and placement may be terminated. Provided, however, the young adult may  
34 request reinstatement of responsibility and resumption of the court's legal supervision at any time

1 prior to their twenty-first birthday if the young adult meets the requirements set forth in §14-1-  
2 6(c)(3). If the department wishes to terminate the court's legal supervision and its responsibility for  
3 care and placement, it may file a motion for good cause. The court may exercise its discretion to  
4 terminate legal supervision over the young adult at any time.

5 ~~(b)~~ (d) The court may retain jurisdiction of any child who is seriously emotionally disturbed  
6 or developmentally delayed pursuant to § 42-72-5(b)(24)(v) until that child turns age twenty-one  
7 (21) when the court shall have obtained jurisdiction over any child prior to the child's eighteenth  
8 birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent,  
9 neglected and or abused pursuant to §§ 14-1-5, and 40-11-7, or 42-72-14.

10 ~~(c)~~ (e) The department of children, youth and families shall work collaboratively with the  
11 department of behavioral healthcare, developmental disabilities and hospitals, and other agencies,  
12 in accordance with § 14-1-59, to provide the family court with a transition plan for those individuals  
13 who come under the court's jurisdiction pursuant to a petition alleging that the child is dependent,  
14 neglected, and/or abused and who are seriously emotionally disturbed or developmentally delayed  
15 pursuant to § 42-72-5(b)(24)(v). This plan shall be a joint plan presented to the court by the  
16 department of children, youth and families and the department of behavioral healthcare,  
17 developmental disabilities and hospitals. The plan shall include the behavioral healthcare,  
18 developmental disabilities and hospitals' community or residential service level, health insurance  
19 option, education plan, available mentors, continuing support services, workforce supports and  
20 employment services, and the plan shall be provided to the court at least twelve (12) months prior  
21 to discharge. At least three (3) months prior to discharge, the plan shall identify the specific  
22 placement for the child, if a residential placement is needed. The court shall monitor the transition  
23 plan. In the instance where the department of behavioral healthcare, developmental disabilities and  
24 hospitals has not made timely referrals to appropriate placements and services, the department of  
25 children, youth and families may initiate referrals.

26 ~~(a)~~ (f) The parent and/or guardian and/or guardian ad litem of a child who is seriously  
27 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is  
28 before the court pursuant to §§ 14-1-5(1)(iii) through 14-1-5(1)(v), 40-11-7 or 42-72-14, shall be  
29 entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no  
30 appropriate transition plan has been submitted to the court by the department of children, person  
31 and families and the department of behavioral healthcare, developmental disabilities and hospitals.  
32 The family court shall require that the department of behavioral healthcare, developmental  
33 disabilities, and hospitals shall immediately identify a liaison to work with the department of  
34 children, youth, and families until the child reaches the age of twenty-one (21) and an immediate

1 transition plan be submitted if the following facts are found:

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

5 (2) No suitable housing options, health insurance, educational plan, available mentors,  
6 continuing support services, workforce supports, and employment services have been identified for  
7 the child.

8 ~~(e) Provided, further, that any youth who comes within the jurisdiction of the court by the~~  
9 ~~filing of a wayward or delinquent petition based upon an offense that was committed prior to July~~  
10 ~~1, 2007, including youth who are adjudicated and committed to the Rhode Island training school~~  
11 ~~and who are placed in a temporary community placement as authorized by the family court, may~~  
12 ~~continue under the jurisdiction of the court until he or she turns twenty one (21) years of age.~~

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

20 ~~(g)~~ (h) In any case where the court shall not have acquired jurisdiction over any person  
21 prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that  
22 the person had committed an offense prior to the person attaining the age of eighteen (18) years  
23 which would be punishable as a felony if committed by an adult, that person shall be referred to  
24 the court that had jurisdiction over the offense if it had been committed by an adult. The court shall  
25 have jurisdiction to try that person for the offense committed prior to the person attaining the age  
26 of eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum  
27 penalty provided for the conviction of that offense.

28 ~~(h)~~ (i) In any case where the court has certified and adjudicated a child in accordance with  
29 the provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the power  
30 and authority to sentence the child to a period in excess of the age of nineteen (19) years. However,  
31 in no case shall the sentence be in excess of the maximum penalty provided by statute for the  
32 conviction of the offense.

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

1           **14-1-11.1. Commitment of voluntary placements.**

2           (a) The department of children, youth, and families shall petition the family court and  
3 request the care, custody, and control of any child who is voluntarily placed with the department  
4 for the purpose of foster care by a parent or other person previously having custody and who  
5 remains in foster care for a period of twelve (12) months. However, there shall be no requirement  
6 for the department to seek custody of any child with an emotional, behavioral or mental disorder  
7 or developmental or physical disability if the child is voluntarily placed with the department by a  
8 parent or guardian of the child for the purpose of accessing an out-of-home program for the child  
9 in a program which provides services for children with disabilities, including, but not limited to,  
10 residential treatment programs, residential counseling centers, and therapeutic foster care  
11 programs.

12           (b) In a hearing on a petition alleging that a child is dependent, competent and creditable  
13 evidence that the child has remained in foster care for a period of twelve (12) months shall  
14 constitute prima facie evidence sufficient to support the finding by the court that the child is  
15 "dependent" in accordance with § 14-1-3.

16           (c) In those cases where a young adult who meets the eligibility criteria in §14-1-6(c)  
17 wishes to continue in foster care after age eighteen (18), the young adult and an authorized  
18 representative of DCYF shall, before the youth reaches age eighteen (18), discuss the terms of a  
19 voluntary placement agreement for extension of care to be executed upon or after the young adult's  
20 eighteenth birthday.

21           (d) In those cases where a young adult who meets the eligibility criteria in §14-1-6(c) exits  
22 foster care at or after age eighteen (18), but wishes to return to foster care before age twenty-one  
23 (21), DCYF shall file a petition for legal supervision of the young adult, with a voluntary placement  
24 agreement for extension of care, executed by the young adult and an authorized representative of  
25 DCYF attached.

26           SECTION 2. Section 40-11-14 of the General Laws in Chapter 40-11 entitled "Abused and  
27 Neglected Children" is hereby amended to read as follows:

28           **40-11-14. Right to representation in court proceedings.**

29           (a) Any child who is alleged to be abused or neglected as a subject of a petition filed in  
30 family court under this chapter, shall have a guardian ad litem appointed by the court to represent  
31 this child. In addition, any young adult, who is eligible for extended foster care pursuant to §14-1-  
32 6(c) and who has executed a voluntary agreement for extension of care may request the appointment  
33 of guardian ad litem or court-appointed counsel. An appointment shall be in the discretion of the  
34 court. The cost of counsel in those instances shall be paid by the state.

1 (b) A volunteer court-appointed special advocate may be assigned to assist the guardian ad  
2 litem, in the court-appointed special advocate's office (CASA):

3 (1) In order to assist the family court with the ability to ensure that these volunteers, whose  
4 activity involves routine contact with minors, are of good moral character, all persons seeking to  
5 volunteer for CASA shall be required to undergo a national criminal records check for the purpose  
6 of determining whether the prospective volunteer has been convicted of any crime.

7 (i) A national criminal records check shall include fingerprints submitted to the Federal  
8 Bureau of Investigation (FBI) by the department of children, youth and families (DCYF) for a  
9 national criminal records check. The national criminal records check shall be processed prior to the  
10 commencement of volunteer activity.

11 (ii) For the purposes of this section, "conviction" means, in addition to judgments of  
12 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
13 where the defendant has entered a plea of nolo contendere and has received a sentence of probation  
14 and that sentence has not expired and those instances where a defendant has entered into a deferred  
15 sentence agreement with the attorney general.

16 (iii) For the purposes of this section, "disqualifying information" means information  
17 produced by a national criminal records check pertaining to conviction for the offenses designated  
18 as "disqualifying information" pursuant to DCYF policy.

19 (iv) The department of children, youth and families (DCYF) shall inform the applicant, in  
20 writing, of the nature of the disqualifying information; and, without disclosing the nature of the  
21 disqualifying information, shall notify the family court, in writing, that disqualifying information  
22 has been discovered.

23 (v) In those situations in which no disqualifying information has been found, DCYF shall  
24 inform the applicant and the family court, in writing, of this fact.

25 (vi) The family court shall maintain on file evidence that national criminal records checks  
26 have completed on all volunteer court-appointed special advocates.

27 (vii) The criminal record check shall be conducted without charge to the prospective CASA  
28 volunteers. At the conclusion of the background check required pursuant to this section, DCYF  
29 shall promptly destroy the fingerprint record of the applicant obtained pursuant to this chapter.

30 (2) All persons seeking to volunteer for CASA must submit a satisfactory DCYF clearance  
31 and participate in a program of training offered by the CASA office.

32 (c) If the parent or other person responsible for the child's care is financially unable to  
33 engage counsel as determined by the court, the court may, at the request of that person, and in its  
34 discretion, appoint the public defender, or other counsel, to represent the person. The cost of other



1 counsel in those instances shall be paid by the state. In every court proceeding under this chapter  
2 in which it is a party, the department shall be represented by its legal counsel.

3 SECTION 3. Chapter 40-11 of the General Laws entitled "Abused and Neglected Children"  
4 is hereby amended by adding thereto the following section:

5 **40-11-12.5. Review of young adults under the court's legal supervision and receiving**  
6 **care and placement services from DCYF.**

7 (a) In the case of a young adult, between the ages of eighteen (18) and twenty-one (21),  
8 who has executed a voluntary placement agreement for continued care and placement responsibility  
9 from the department and for legal supervision of the court, the permanency plan shall document  
10 the reasonable efforts made by the department and the young adult to finalize a permanency plan  
11 that addresses the goal of preparing the young adult for independence and successful adulthood.  
12 This includes, but is not limited to, housing assistance to obtain supervised independent living  
13 arrangements, shared living arrangements or extended foster and kinship care; education,  
14 vocational assessment, job training and employment plan needed to transition the young adult to  
15 self-sufficiency; assisting the young adult in obtaining educational goals; a job,  
16 employment/vocational skills; any other services and supports that will assist the young adult in  
17 accessing available services; applying for public benefits; acquiring important documents, such as  
18 ID card, driver's license, birth certificate, social security card, health insurance cards, medical  
19 records; attending to physical and mental health needs; maintaining relationships with individuals  
20 who are important to them and acquiring information about siblings and other maternal and paternal  
21 relatives.

22 (b) Initial judicial determination - Within one hundred eighty (180) days of signing the  
23 voluntary placement agreement, the department must petition the court to make a determination  
24 whether remaining in foster care is in the young adult's best interests.

25 (c) The court shall conduct a permanency hearing within one year after the young adult and  
26 the department execute a voluntary placement agreement and annually thereafter. At the  
27 permanency hearing, the department shall present a written case plan to the court for approval that  
28 details the necessary services, care and placement the young adult shall receive to assist the  
29 transition to independence and successful adulthood. The court shall also review the efforts made  
30 to assist the youth in forming permanent connections with caring adults, or otherwise establish  
31 positive, supportive relationships. The young adult is expected to be present at each permanency  
32 hearing, except for good cause shown. The young adult shall be expected to guide the development  
33 of the permanency plan. The court shall determine permanency plan for the young adult and  
34 whether continued care and placement responsibility from the department is in the best interests of

1 the young adult. The best interests of the young adult shall be paramount.

2 (d) Notice of the court hearings shall be served by the department upon all parties in interest  
3 in accordance with the rules of child welfare procedure of the family court.

4 (e) Periodic formal reviews, shall be held not less than once every one hundred eighty (180)  
5 days to assess the progress and case plan of any young adult under the court's legal supervision and  
6 under the care and placement responsibility of DCYF pursuant to a voluntary agreement for  
7 extension of care.

8 The permanency plan shall be reviewed by the court at least once every twelve (12) months  
9 at a permanency hearing and by the department in an administrative review within one hundred  
10 eighty (180) days after the permanency hearing. The young adult is expected to participate in case  
11 planning and periodic reviews.

12 (f) At the administrative review and the permanency hearing the department and the court  
13 shall ascertain:

14 (1) Whether the young adult continues to be compliant with the conditions for eligibility  
15 for extended care and placement responsibility;

16 (2) Whether the department has made reasonable efforts to finalize a permanency plan that  
17 prepares the young adult for a successful transition to independence;

18 (3) Whether the young adult is safe in their placement and continued foster care is  
19 appropriate;

20 (4) Whether the young adult has been provided appropriate services or requires additional  
21 services and support to achieve the goals documented in the case plan for a successful transition  
22 under state or federal law;

23 (5) Whether progress has been made to achieve independence on a projected date;

24 (g) The court may order the department or any other department of state government,  
25 consistent with §14-1-59 to take action to access transition services, particularly those necessary to  
26 secure affordable housing, to provide vocational testing, assessment and guidance, to acquire job  
27 training opportunities and apprenticeships and to apply for any applicable state or federal benefits  
28 to ensure that the young adult receives the support and care necessary to achieve independence and  
29 successful adulthood.

30 SECTION 4. Section 42-102-10 of the General Laws in Chapter 42-102 entitled  
31 "Governor's Workforce Board Rhode Island" is hereby amended to read as follows:

32 **42-102-10. State Career-Pathways System.**

33 The workforce board ("board") shall support and oversee statewide efforts to develop and  
34 expand career pathways that enable individuals to secure employment within a specific industry or

1 occupational sector and to advance over time to successively higher levels of education and  
2 employment in that sector. Towards this purpose, the board shall convene an advisory committee  
3 comprised of representatives from business, labor, adult education, secondary education, higher  
4 education, the department of corrections, the executive office of health and human services, [the](#)  
5 [department of children, youth and families](#), the department of behavioral healthcare, developmental  
6 disabilities and hospitals, the office of library and information services, community-based  
7 organizations, consumers, and the public-workforce system. Included in the state career-pathways  
8 system, shall be the creation of pathways and workforce training programs to fill skill gaps and  
9 employment opportunities in the clean-energy sector.

10 SECTION 5. Sections 40-72.1-2, 42-72.1-3, and 42-72.1-6 of the General Laws in Chapter  
11 40-72.1 entitled "Licensing and Monitoring of Child Care Providers and Child-Placing Agencies"  
12 are hereby amended to read as follows:

13 **42-72.1-2. Definitions.**As used in this chapter:

14 (1) "Administrator of licensing" means the director of the licensing unit (or his/her  
15 designee) that carries out the provisions of this chapter, hereafter referred to as the "administrator".

16 (2) "Applicant" means a child-placing agency or childcare provider that applies for a  
17 license to operate.

18 (3) "Child" means any person less than eighteen (18) years of age; provided, that a child  
19 over eighteen (18) years of age who is nevertheless subject to continuing jurisdiction of the family  
20 court, pursuant to chapter 1 of title 14, or defined as emotionally disturbed according to chapter 7  
21 of title 40.1, shall be considered a child for the purposes of this chapter.

22 (4) "Childcare provider" means a person or agency, which offers residential or  
23 nonresidential care and/or treatment for a child outside of his/her natural home.

24 (5) "Child day care [or child care](#)" means daily care and/or supervision offered  
25 commercially to the public for any part of a twenty-four (24) hour day to children away from their  
26 homes.

27 (6) "Child day care center [or child care center](#)" means any person, firm, corporation,  
28 association, or agency who, on a regular or irregular basis, receives any child under the age of  
29 sixteen (16) years, for the purpose of care and/or supervision, not in a home or residence, apart  
30 from the child's parent or guardian for any part of a twenty-four (24) hour day irrespective of  
31 compensation or reward. It shall include childcare programs that are offered to employees at the  
32 worksite. It does not include nursery schools or other programs of educational services subject to  
33 approval by the commissioner of elementary and secondary education.

34 (7) "Child-placing agency" means any private or public agency, which receives children

1 for placement into independent living arrangements, supervised apartment living, residential group  
2 care facilities, family foster homes, or adoptive homes.

3 (8) "Department" means the department of children, youth, and families (DCYF).

4 (9) "Director" means the director of the department of children, youth, and families, or the  
5 director's designee.

6 (10) "Family day care home" means any home other than the child's home in which child  
7 day care in lieu of parental care and/or supervision is offered at the same time to four (4) or more  
8 children who are not relatives of the care giver.

9 (11) "Group family day care home" means a residence occupied by an individual of at least  
10 twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve  
11 (12) children, with the assistance of one or more approved adults, for any part of a twenty-four (24)  
12 hour day. The maximum of twelve (12) children shall include children under six (6) years of age  
13 who are living in the home, school-age children under the age of twelve (12) years whether they  
14 are living in the home or are received for care, and children related to the provider who are received  
15 for care. These programs shall be subject to yearly licensing as addressed in this chapter and shall  
16 comply with all applicable state and local fire, health, and zoning regulations.

17 (12) "Licensee" means any person, firm, corporation, association, or agency, which holds  
18 a valid license under this chapter.

19 (13) "Regulation" means any requirement for licensure, promulgated pursuant to this  
20 chapter having the force of law.

21 (14) "Related" means any of the following relationships, by marriage, blood or adoption,  
22 even following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt,  
23 uncle, and first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant  
24 who relies for a defense upon the relationship of any child to him or herself, the defendant shall  
25 have the burden of proof as to the relationship.

26 **42-72.1-3. Powers and scope of activities.**

27 (a) The department shall issue, deny, and revoke licenses for, and monitor the operation of,  
28 facilities and programs by child placing agencies and child care providers, as defined in § 42-72.1-  
29 [2 or assess administrative penalty under the provisions of §42-72.11 of this chapter relating to](#)  
30 [licensed child care centers, family child care homes, group family child care homes.](#)

31 (b) The department shall adopt, amend, and rescind regulations in accordance with this  
32 chapter and implement its provisions. The regulations shall be promulgated and become effective  
33 in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

34 (c) The department through its licensing unit shall administer and manage the regulations

1 pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and  
2 administrative powers necessary to carry out its functions.

3 (d) The administrator shall investigate complaints of noncompliance, and shall take  
4 licensing action as required.

5 (e) Regulations formulated pursuant to the foregoing authority shall include, but need not  
6 be limited to, the following:

7 (1) Financial, administrative and organizational ability, and stability of the applicant;

8 (2) Compliance with specific fire and safety codes and health regulations;

9 (3) Character, health suitability, qualifications of child care providers;

10 (4) Staff/child ratios and workload assignments of staff providing care or supervision to  
11 children;

12 (5) Type and content of records or documents that must be maintained to collect and retain  
13 information for the planning and caring for children;

14 (6) Procedures and practices regarding basic child care and placing services to ensure  
15 protection to the child regarding the manner and appropriateness of placement;

16 (7) Service to families of children in care;

17 (8) Program activities, including components related to physical growth, social, emotional,  
18 educational, and recreational activities, social services and habilitative or rehabilitative treatment;

19 (9) Investigation of previous employment, criminal record check and department records  
20 check; and

21 (10) Immunization and testing requirements for communicable diseases, including, but not  
22 limited to, tuberculosis, of child care providers and children at any child day-care center or family  
23 day-care home as is specified in regulations promulgated by the director of the department of health.

24 Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the  
25 department of children, youth, and families.

26 (f) The administrator may:

27 (1) Prescribe any forms for reports, statements, notices, and other documents deemed  
28 necessary;

29 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to  
30 facilitate compliance with and enforcement of the regulations;

31 (3) Prepare reports and studies to advance the purpose of this chapter;

32 (4) Provide consultation and technical assistance, as requested, to assist licensees in  
33 maintaining compliance; and

34 (5) Refer to the advisory council for children and families for advice and consultation on

1 licensing matter.

2 (g) The department may promulgate rules and regulations for the establishment of child  
3 day care centers located on the second floor.

4 (h) When the department is otherwise unsuccessful in remedying noncompliance with the  
5 provisions of this chapter and the regulations promulgated under it, it ~~shall~~ [may](#) petition the family  
6 court for an order enjoining the noncompliance or for any order that equity and justice may require.

7 (i) The department shall collaborate with the departments of human services, elementary  
8 and secondary education, and health to provide monitoring, mentoring, training, technical  
9 assistance, and other services which are necessary and appropriate to improving the quality of child  
10 care offered by child care providers who are certified, licensed, or approved by the department or  
11 the department of elementary and secondary education or who are seeking certification, licensure,  
12 or approval pursuant to § 42-72-1 or § 16-48-2, including non-English speaking providers.

13 (j) The department shall adopt, amend, and rescind regulations in the same manner as set  
14 forth above in order to permit the placement of a pregnant minor in a group residential facility  
15 which provides a shelter for pregnant adults as its sole purpose.

16 **42-72.1-6. Violations, suspensions and revocations of license.**

17 (a) When a licensee violates the terms of the license, the provisions of this chapter, or any  
18 regulation thereunder, the department may pursue the administrative remedies herein provided,  
19 [including the assessment administrative penalties under the provisions of §42-72.11 of this chapter](#)  
20 [relating to licensed child care centers, family child care homes, group family child care homes,](#) in  
21 addition to other civil or criminal remedies according to the general laws.

22 (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35  
23 of title 42, the administrator may revoke the license, or suspend the license for a period not  
24 exceeding six (6) months.

25 (c) During a suspension, the agency, facility or program shall cease operation.

26 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of  
27 suspension, submit a plan of corrective action to the administrator. The plan shall outline the steps  
28 and timetables for immediate correction of the areas of noncompliance and is subject to the  
29 approval of the administrator.

30 (e) At the end of the suspension, the administrator may reinstate the license for the term of  
31 the original license, revoke the license, issue a new license, or deny a reapplication.

32 (f) Upon revocation, the licensed agency, program or facility shall cease operation. The  
33 licensee whose license has been revoked may not apply for a similar license within a three (3) year  
34 period from the date of revocation.

1 (g) Except in those instances wherein there is a determination that there exists a danger to  
2 the public health, safety, or welfare or there is a determination that the child care provider has  
3 committed a serious breach of State law, orders, or regulation, the director shall utilize progressive  
4 penalties for noncompliance of any rule, regulation or order relating to child care providers.  
5 Progressive penalties could include written notice of noncompliance, education and training,  
6 suspending enrollment to the program, assessing fines, suspension of license, and revocation of  
7 license.

8 SECTION 6. Title 42 of the General Laws entitled "State Affairs and Government" is  
9 hereby amended by adding thereto the following chapter:

10 CHAPTER 42-72.11

11 ADMINISTRATIVE PENALTIES FOR CHILD CARE LICENSING VIOLATIONS

12 **42-72.11-1. Definitions.**

13 As used in this chapter, the following words, unless the context clearly requires  
14 otherwise, shall have the following meanings:

15 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty  
16 specified by statute or, where not specified by statute, an amount not to exceed five hundred dollars  
17 (\$500).

18 (2) "Director" means the director of the department of children, youth and families or his  
19 or her duly authorized agent.

20 (3) "Person" means any public or private corporation, individual, partnership, association,  
21 or other entity that is licensed as a child care center, family child care home, group family child  
22 care home or any officer, employee or agent thereof.

23 (4) "Citation" means a notice of an assessment of an administrative penalty issued by the  
24 director or his or her duly authorized agent.

25 **42-72.11-2. Authority of director to assess penalty.**

26 The director may assess an administrative penalty on a person who fails to comply with  
27 any provision of any rule, regulation, order, permit, license, or approval issued or adopted by the  
28 director, or of any law which the director has the authority or responsibility to enforce.

29 **42-72.11-3. Notice of violation and assessment of penalty.**

30 (a) Whenever the director seeks to assess an administrative penalty on any person, the  
31 director shall cause to be served upon the person, either by service, in hand, or by certified mail,  
32 return receipt requested, a written notice of its intent to assess an administrative penalty which shall  
33 include:

34 (1) A concise statement of the alleged act or omission for which the administrative penalty

1 is sought to be assessed;

2 (2) Each law, rule, regulation, or order which has not been complied with as a result of the  
3 alleged act or omission;

4 (3) The amount which the director seeks to assess as an administrative penalty for each  
5 alleged act or omission;

6 (4) A statement of the person's right to an adjudicatory hearing on the proposed assessment;

7 (5) The requirements the person must comply with to avoid being deemed to have waived  
8 the right to an adjudicatory hearing; and

9 (6) The manner of payment thereof if the person elects to pay the penalty and waive an  
10 adjudicatory hearing.

11 **42-72.11-4. Right to adjudicatory hearing.**

12 (a) Whenever the director seeks to assess an administrative penalty on any person the  
13 person shall have the right to an adjudicatory hearing under chapter 35 of this title, the provisions  
14 of which shall apply except when they are inconsistent with the provisions of this chapter.

15 (b) A person shall be deemed to have waived his or her right to an adjudicatory hearing  
16 unless, within ten (10) days of the date of the director's notice that he or she seeks to assess an  
17 administrative penalty, the person files with the director a written statement denying the occurrence  
18 of any of the acts or omissions alleged by the director in the notice, or asserting that the money  
19 amount of the proposed administrative penalty is excessive. In any adjudicatory hearing authorized  
20 pursuant to chapter 35 of title 42, the director shall, by a preponderance of the evidence, prove the  
21 occurrence of each act or omission alleged by the director.

22 (c) If a person waives his or her right to an adjudicatory hearing, the proposed  
23 administrative penalty shall be final immediately upon the waiver.

24 **42-72.11-5. Judicial review.**

25 (a) If an administrative penalty is assessed at the conclusion of an adjudicatory hearing the  
26 administrative penalty shall be final upon the expiration of thirty (30) days if no action for judicial  
27 review of the decision is commenced pursuant to chapter 35 of this title.

28 (b) The family court shall have exclusive jurisdiction to review all appeals filed under this  
29 chapter.

30 **42-72.11-6. Determination of administrative penalty.**

31 In determining the amount of each administrative penalty, the director shall include, but  
32 not be limited to, the following to the extent practicable in his or her considerations:

33 (1) The actual and potential impact on health, safety and welfare of children impacted the  
34 alleged noncompliance;



1 (2) Whether the person being assessed the administrative penalty took steps to prevent  
2 noncompliance, and to promptly come into compliance;

3 (3) Whether the person being assessed the administrative penalty has previously failed to  
4 comply with any rule, regulation, or order issued or adopted by the director, or any law which the  
5 director has the authority or responsibility to enforce;

6 (4) Making compliance less costly than noncompliance;

7 (5) Deterring future noncompliance;

8 (7) The amount necessary to eliminate the economic advantage of noncompliance;

9 (8) Whether the failure to comply was intentional, willful, or knowing or was the result of  
10 error;

11 (9) Any amount specified by state and/or federal statute for a similar violation or failure to  
12 comply;

13 (10) Any other factor(s) that may be relevant in determining the amount of a penalty,  
14 provided that the other factors shall be set forth in the written notice of assessment of the penalty;  
15 and

16 (11) The public interest.

17 **42-72.11-7. Limitations on amount of penalty.**

18 The administrative penalty shall be not more than one thousand dollars (\$1,000) for each  
19 violation or failure to comply unless a different amount is authorized by statute as a civil penalty  
20 for the subject violation. Each and every occurrence and/or day during which the violation or failure  
21 to comply is repeated shall constitute a separate and distinct violation.

22 **42-72.11-8. Rules and regulations.**

23 No administrative penalty shall be assessed by the director pursuant to this chapter until  
24 the director has promulgated rules and regulations for assessing administrative penalties in  
25 accordance with the provisions of chapter 35 of this title.

26 **42-72.11-9. Severability.**

27 If any provision of this chapter or the application thereof to any person or circumstances is  
28 held invalid, that invalidity shall not affect other provisions or applications of the chapter, which  
29 can be given effect without the invalid provision or application, and to this end the provisions of  
30 this chapter are declared to be severable.

31 SECTION 7. Sections 23-24.6-14 and 23-24.6-14.1 of the General Laws in Chapter 23-  
32 24.6 entitled "Lead Poisoning Prevention Act" are hereby amended to read as follows:

33 **23-24.6-14. Inspection of child care facilities.**

34 (a) The director shall promulgate regulations requiring that as a condition of licensure all

1 ~~preschools, day care facilities, nursery schools,~~ group family child care homes, family child care  
2 homes, child care centers, residential facilities, and public and private elementary schools ~~and~~  
3 ~~schoolyards, and public playgrounds, and shelters and foster homes~~ serving children under the age  
4 of six (6) years in Rhode Island:

- 5 (1) Receive comprehensive environmental lead inspections at specified intervals; and
- 6 (2) Demonstrate that they are either lead free or lead safe.

7 ~~(b) The director, shall, using state inspectors, conduct comprehensive environmental lead~~  
8 ~~inspections for all these facilities at the specified intervals.~~

9 **23-24.6-14.1. Inspection of foster homes.**

10 (a) The director shall promulgate regulations that subject foster homes to, at a minimum, a  
11 visual lead inspection to assess whether there are any potential lead hazards in the home. The  
12 department of health shall review the results of all lead inspections of foster homes and shall ensure  
13 that owners receive all information needed to remediate the lead hazards identified in the  
14 inspection.

15 SECTION 8. Section 40-5.2-20 of the General Laws in Chapter 40-5.2 entitled "The Rhode  
16 Island Works Program" is hereby amended to read as follows:

17 **40-5.2-20. Child-care assistance.**

18 Families or assistance units eligible for childcare assistance.

19 (a) The department shall provide appropriate child care to every participant who is eligible  
20 for cash assistance and who requires child care in order to meet the work requirements in  
21 accordance with this chapter.

22 (b) *Low-Income child care.* The department shall provide child care to all other working  
23 families with incomes at or below one hundred eighty percent (180%) of the federal poverty level  
24 if, and to the extent, such other families require child care in order to work at paid employment as  
25 defined in the department's rules and regulations. Beginning July 1, 2018, and contingent on the  
26 availability of funding, the department shall provide child care to families with incomes at or below  
27 one hundred eighty percent (180%) of the federal poverty level if, and to the extent, such families  
28 are enrolled in studies, as defined in the department's rules and regulations, at a Rhode Island  
29 institution of higher education, and need child care in order to attend. Beginning October 1, 2013,  
30 the department shall also provide child care to families with incomes at or below one hundred  
31 eighty percent (180%) of the federal poverty level if, and to the extent, such families require child  
32 care to participate on a short-term basis, as defined in the department's rules and regulations, in  
33 training, apprenticeship, internship, on-the-job training, work experience, work immersion, or other  
34 job-readiness/job-attachment program sponsored or funded by the human resource investment

1 council (governor's workforce board) or state agencies that are part of the coordinated program  
2 system pursuant to § 42-102-11.

3 (c) No family/assistance unit shall be eligible for child care assistance under this chapter if  
4 the combined value of its liquid resources exceeds ten thousand dollars (\$10,000). Liquid resources  
5 are defined as any interest(s) in property in the form of cash or other financial instruments or  
6 accounts that are readily convertible to cash or cash equivalents. These include, but are not limited  
7 to: cash, bank, credit union, or other financial institution savings, checking, and money market  
8 accounts; certificates of deposit or other time deposits; stocks; bonds; mutual funds; and other  
9 similar financial instruments or accounts. These do not include educational savings accounts, plans,  
10 or programs; retirement accounts, plans, or programs; or accounts held jointly with another adult,  
11 not including a spouse. The department is authorized to promulgate rules and regulations to  
12 determine the ownership and source of the funds in the joint account.

13 (d) As a condition of eligibility for child care assistance under this chapter, the parent or  
14 caretaker relative of the family must consent to, and must cooperate with, the department in  
15 establishing paternity, and in establishing and/or enforcing child support and medical support  
16 orders for all children in the family in accordance with title 15, as amended, unless the parent or  
17 caretaker relative is found to have good cause for refusing to comply with the requirements of this  
18 subsection.

19 (e) For purposes of this section, "appropriate child care" means child care, including infant,  
20 toddler, pre-school, nursery school, school-age, that is provided by a person or organization  
21 qualified, approved, and authorized to provide such care by the department of children, youth, and  
22 families, or by the department of elementary and secondary education, or such other lawful  
23 providers as determined by the department of human services, in cooperation with the department  
24 of children, youth and families and the department of elementary and secondary education.

25 (f) (1) Families with incomes below one hundred percent (100%) of the applicable federal  
26 poverty level guidelines shall be provided with free childcare. Families with incomes greater than  
27 one hundred percent (100%) and less than one hundred eighty (180%) of the applicable federal  
28 poverty guideline shall be required to pay for some portion of the childcare they receive, according  
29 to a sliding-fee scale adopted by the department in the department's rules.

30 (2) Families who are receiving childcare assistance and who become ineligible for  
31 childcare assistance as a result of their incomes exceeding one hundred eighty percent (180%) of  
32 the applicable federal poverty guidelines shall continue to be eligible for childcare assistance until  
33 their incomes exceed two hundred twenty-five percent (225%) of the applicable federal poverty  
34 guidelines. To be eligible, such families must continue to pay for some portion of the childcare they

1 receive, as indicated in a sliding-fee scale adopted in the department's rules and in accordance with  
2 all other eligibility standards.

3 (g) In determining the type of childcare to be provided to a family, the department shall  
4 take into account the cost of available childcare options; the suitability of the type of care available  
5 for the child; and the parent's preference as to the type of child care.

6 (h) For purposes of this section, "income" for families receiving cash assistance under §  
7 40-5.2-11 means gross earned income and unearned income, subject to the income exclusions in  
8 subdivisions §§ 40-5.2-10(g)(2) and 40-5.2-10(g)(3), and income for other families shall mean  
9 gross, earned and unearned income as determined by departmental regulations.

10 (i) The caseload estimating conference established by chapter 17 of title 35 shall forecast  
11 the expenditures for childcare in accordance with the provisions of § 35-17-1.

12 (j) In determining eligibility for child care assistance for children of members of reserve  
13 components called to active duty during a time of conflict, the department shall freeze the family  
14 composition and the family income of the reserve component member as it was in the month prior  
15 to the month of leaving for active duty. This shall continue until the individual is officially  
16 discharged from active duty.

17 SECTION 9. Section 40-6.2-1.1 of the General Laws in Chapter 40-6.2 entitled "Child  
18 Care – State Subsidies" is hereby amended to read as follows:

19 **40-6.2-1.1. Rates established.**

20 (a) Through June 30, 2015, subject to the payment limitations in section (b), the maximum  
21 reimbursement rates to be paid by the departments of human services and children, youth and  
22 families for licensed child care centers and ~~certified~~ licensed family-child care providers shall be  
23 based on the following schedule of the 75th percentile of the 2002 weekly market rates adjusted for  
24 the average of the 75th percentile of the 2002 and the 2004 weekly market rates:

25	LICENSED CHILD CARE CENTERS	75th PERCENTILE OF WEEKLY MARKET RATE
26	INFANT	\$182.00
27	PRESCHOOL	\$150.00
28	SCHOOL-AGE	\$135.00
29	CERTIFIED FAMILY CHILD CARE	75th PERCENTILE OF WEEKLY MARKET RATE
30	CHILD CARE PROVIDERS	
31	INFANT	\$150.00
32	PRESCHOOL	\$150.00
33	SCHOOL-AGE	\$135.00

34 ~~Effective July 1, 2015,~~ Through June 30, 2018, subject to the payment limitations in

1 subsection (b), the maximum reimbursement rates to be paid by the departments of human services  
2 and children, youth and families for licensed child care centers and ~~certified~~licensed family-child  
3 care providers shall be based on the above schedule of the 75th percentile of the 2002 weekly  
4 market rates adjusted for the average of the 75th percentile of the 2002 and the 2004 weekly market  
5 rates. These rates shall be increased by ten dollars (\$10.00) per week for infant/toddler care  
6 provided by ~~certified~~ licensed family-child care providers and license-exempt providers and then  
7 the rates for all providers for all age groups shall be increased by three percent (3%). Effective July  
8 1, 2018, subject to the payment limitations in subsection (b), the maximum infant/toddler  
9 reimbursement rate to be paid by the departments of human services and children, youth and  
10 families for licensed child care centers and licensed family-child care providers shall be  
11 implemented in a tiered manner, reflective of the quality rating the provider has achieved within  
12 the State's Quality Rating System outlined in § 42-12-23.1. The rates shall be based on the 2015  
13 market rate survey and shall be updated when future market rate surveys are completed. Rates will  
14 be established by the department of human services. No rate shall be below \$193 for licensed child  
15 care centers, and \$169 for licensed family child care homes, and the rate for Providers achieving a  
16 five-star rating in the quality rating system will be no less than the 75th percentile of the market  
17 rate.

18 (b) The departments shall pay child care providers based on the lesser of the applicable rate  
19 specified in subsection (a), or the lowest rate actually charged by the provider to any of its public  
20 or private child care customers with respect to each of the rate categories, infant, preschool and  
21 school-age.

22 (c) By June 30, 2004 and biennially through June 30, 2014, the department of labor and  
23 training shall conduct an independent survey or certify an independent survey of the then current  
24 weekly market rates for child care in Rhode Island and shall forward such weekly market rate  
25 survey to the department of human services. The next survey shall be conducted by June 30, 2016,  
26 and triennially thereafter. The departments of human services and labor and training will jointly  
27 determine the survey criteria including, but not limited to, rate categories and sub-categories.

28 (d) In order to expand the accessibility and availability of quality child care, the department  
29 of human services is authorized to establish by regulation alternative or incentive rates of  
30 reimbursement for quality enhancements, innovative or specialized child care and alternative  
31 methodologies of child care delivery, including non-traditional delivery systems and  
32 collaborations.

33 (e) ~~On or before~~ Effective January 1, 2007, all child care providers have the option to be  
34 paid every two (2) weeks and have the option of automatic direct deposit and/or electronic funds

1 transfer of reimbursement payments.

2 SECTION 10. This Article shall take effect upon passage.