

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

ARTICLE 15 AS AMENDED

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

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

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

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

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

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

30 (d) A former foster child who was adopted or placed in guardianship with an adoption
31 assistance agreement or a guardianship assistance agreement that was executed on or after his or
32 her sixteenth birthday and prior to his or her eighteenth birthday may voluntarily agree to extended
33 care and placement by the department and legal supervision by the court until age twenty-one (21)
34 if the young adult satisfies the requirements in § 14-1-6(c)(2). Provided, however, the department

1 retains the right to review the request and first attempt to address the issues through the adoption
2 assistance agreement by providing post adoptive or post guardianship support services to the young
3 adult and his or her adoptive or guardianship family.

4 (e) Upon the request of the young adult, who voluntarily agreed to the extension of care
5 and placement by the department and legal supervision by the court, pursuant to subsections (c)
6 and (d) of this section, the court's legal supervision and the department's responsibility for care and
7 placement may be terminated. Provided, however, the young adult may request reinstatement of
8 responsibility and resumption of the court's legal supervision at any time prior to their twenty-first
9 birthday if the young adult meets the requirements set forth in §14-1-6(c)(3). If the department
10 wishes to terminate the court's legal supervision and its responsibility for care and placement, it
11 may file a motion for good cause. The court may exercise its discretion to terminate legal
12 supervision over the young adult at any time.

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

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

34 ~~(h)~~ (h) The parent and/or guardian and/or guardian ad litem of a child who is seriously

1 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is
2 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
3 entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no
4 appropriate transition plan has been submitted to the court by the department of children, person
5 and families and the department of behavioral healthcare, developmental disabilities and hospitals.
6 The family court shall require that the department of behavioral healthcare, developmental
7 disabilities, and hospitals shall immediately identify a liaison to work with the department of
8 children, youth, and families until the child reaches the age of twenty-one (21) and an immediate
9 transition plan be submitted if the following facts are found:

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

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

16 ~~(e) Provided, further, that any youth who comes within the jurisdiction of the court by the~~
17 ~~filing of a wayward or delinquent petition based upon an offense that was committed prior to July~~
18 ~~1, 2007, including youth who are adjudicated and committed to the Rhode Island training school~~
19 ~~and who are placed in a temporary community placement as authorized by the family court, may~~
20 ~~continue under the jurisdiction of the court until he or she turns twenty one (21) years of age.~~

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

28 ~~(e)~~ (j) In any case where the court shall not have acquired jurisdiction over any person prior
29 to the person attaining the age of nineteen (19) years by the filing of a petition alleging that the
30 person had committed an offense prior to the person attaining the age of eighteen (18) years which
31 would be punishable as a felony if committed by an adult, that person shall be referred to the court
32 that had jurisdiction over the offense if it had been committed by an adult. The court shall have
33 jurisdiction to try that person for the offense committed prior to the person attaining the age of
34 eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum

1 penalty provided for the conviction of that offense.

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

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

9 **14-1-11.1. Commitment of voluntary placements.**

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

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

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

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

34 SECTION 2. Section 40-11-14 of the General Laws in Chapter 40-11 entitled "Abused and

1 Neglected Children" is hereby amended to read as follows:

2 **40-11-14. Right to representation in court proceedings.**

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

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

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

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

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

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

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

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

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

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

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

6 (c) If the parent or other person responsible for the child's care is financially unable to
7 engage counsel as determined by the court, the court may, at the request of that person, and in its
8 discretion, appoint the public defender, or other counsel, to represent the person. The cost of other
9 counsel in those instances shall be paid by the state. In every court proceeding under this chapter
10 in which it is a party, the department shall be represented by its legal counsel.

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

13 **40-11-12.5. Review of young adults under the court's legal supervision and receiving**
14 **care and placement services from DCYF.**

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

30 (b) Initial judicial determination - The department must petition the court to make a
31 determination whether remaining in foster care is in the young adult's best interests.

32 The court must make a determination within one hundred eighty (180) days of the signing
33 of the voluntary placement agreement whether remaining in foster care is in the young adult's best
34 interest.

1 (c) The court shall conduct a permanency hearing within one year after the young adult and
2 the department execute a voluntary placement agreement and annually thereafter. At the
3 permanency hearing, the department shall present a written case plan to the court for approval that
4 details the necessary services, care and placement the young adult shall receive to assist the
5 transition to independence and successful adulthood.

6 The court must determine whether the department has made reasonable efforts to finalize
7 a permanency goal of preparing the young adult for successful transition to independence.

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

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

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

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

20 **42-102-10. State Career-Pathways System.**

21 The workforce board ("board") shall support and oversee statewide efforts to develop and
22 expand career pathways that enable individuals to secure employment within a specific industry or
23 occupational sector and to advance over time to successively higher levels of education and
24 employment in that sector. Towards this purpose, the board shall convene an advisory committee
25 comprised of representatives from business, labor, adult education, secondary education, higher
26 education, the department of corrections, the executive office of health and human services, the
27 department of children, youth and families, the department of behavioral healthcare, developmental
28 disabilities and hospitals, the office of library and information services, community-based
29 organizations, consumers, and the public-workforce system. Included in the state career-pathways
30 system, shall be the creation of pathways and workforce training programs to fill skill gaps and
31 employment opportunities in the clean-energy sector.

32 SECTION 5. Sections 40-72.1-2, 42-72.1-3, and 42-72.1-6 of the General Laws in Chapter
33 40-72.1 entitled "Licensing and Monitoring of Child Care Providers and Child-Placing Agencies"
34 are hereby amended to read as follows:

1 **42-72.1-2. Definitions.** As used in this chapter:

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

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

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

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

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

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

22 (7) "Child-placing agency" means any private or public agency, which receives children
23 for placement into independent living arrangements, supervised apartment living, residential group
24 care facilities, family foster homes, or adoptive homes.

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

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

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

31 (11) "Group family day care home" means a residence occupied by an individual of at least
32 twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve
33 (12) children, with the assistance of one or more approved adults, for any part of a twenty-four (24)
34 hour day. The maximum of twelve (12) children shall include children under six (6) years of age

1 who are living in the home, school-age children under the age of twelve (12) years whether they
2 are living in the home or are received for care, and children related to the provider who are received
3 for care. These programs shall be subject to yearly licensing as addressed in this chapter and shall
4 comply with all applicable state and local fire, health, and zoning regulations.

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

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

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

14 **42-72.1-3. Powers and scope of activities.**

15 (a) The department shall issue, deny, and revoke licenses for, and monitor the operation of,
16 facilities and programs by child placing agencies and child care providers, as defined in § 42-72.1-
17 [2 or assess administrative penalty under the provisions of § 42-72.11 of this chapter relating to](#)
18 [licensed child care centers, family child care homes, group family child care homes.](#)

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

22 (c) The department through its licensing unit shall administer and manage the regulations
23 pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and
24 administrative powers necessary to carry out its functions.

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

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

- 29 (1) Financial, administrative and organizational ability, and stability of the applicant;
- 30 (2) Compliance with specific fire and safety codes and health regulations;
- 31 (3) Character, health suitability, qualifications of child care providers;
- 32 (4) Staff/child ratios and workload assignments of staff providing care or supervision to
33 children;
- 34 (5) Type and content of records or documents that must be maintained to collect and retain

1 information for the planning and caring for children;

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

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

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

7 (9) Investigation of previous employment, criminal record check and department records
8 check; and

9 (10) Immunization and testing requirements for communicable diseases, including, but not
10 limited to, tuberculosis, of child care providers and children at any child day-care center or family
11 day-care home as is specified in regulations promulgated by the director of the department of health.
12 Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the
13 department of children, youth, and families.

14 (f) The administrator may:

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

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

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

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

22 (5) Refer to the advisory council for children and families for advice and consultation on
23 licensing matter.

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

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

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

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

4 **42-72.1-6. Violations, suspensions and revocations of license.**

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

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

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

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

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

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

23 [\(g\) Except in those instances wherein there is a determination that there exists a danger to](#)
24 [the public health, safety, or welfare or there is a determination that the child care provider has](#)
25 [committed a serious breach of State law, orders, or regulation, the director shall utilize progressive](#)
26 [penalties for noncompliance of any rule, regulation or order relating to child care providers.](#)
27 [Progressive penalties could include written notice of noncompliance, education and training,](#)
28 [suspending enrollment to the program, assessing fines, suspension of license, and revocation of](#)
29 [license.](#)

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

32 [CHAPTER 42-72.11](#)

33 [ADMINISTRATIVE PENALTIES FOR CHILD CARE LICENSING VIOLATIONS](#)

34 **42-72.11-1. Definitions.**

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

3 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty
4 specified by statute or, where not specified by statute, an amount not to exceed five hundred dollars
5 (\$500).

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

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

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

13 **42-72.11-2. Authority of director to assess penalty.**

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

17 **42-72.11-3. Notice of violation and assessment of penalty.**

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

22 (1) A concise statement of the alleged act or omission for which the administrative penalty
23 is sought to be assessed;

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

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

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

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

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

33 **42-72.11-4. Right to adjudicatory hearing.**

34 (a) Whenever the director seeks to assess an administrative penalty on any person the

1 person shall have the right to an adjudicatory hearing under chapter 35 of this title, the provisions
2 of which shall apply except when they are inconsistent with the provisions of this chapter.

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

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

12 **42-72.11-5. Judicial review.**

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

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

18 **42-72.11-6. Determination of administrative penalty.**

19 Prior to the imposition of an administrative penalty, the department shall complete a risk
20 and safety analysis and the director shall consider the following:

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

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

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

28 (4) Deterring future noncompliance;

29 (5) Eliminating the economic advantage of noncompliance;

30 (6) Consistency with state and/or federal statute for a similar violation or failure to comply;

31 (7) Any other factor(s) that may be relevant in determining the amount of a penalty,
32 provided that the other factors shall be set forth in the written notice of assessment of the penalty;

33 and

34 (8) The public interest.

1 **42-72.11-7. Limitations on amount of penalty.**

2 The administrative penalty shall be not more than five hundred dollars (\$500) for each
3 investigation or failure to comply unless a different amount is authorized by statute as a civil penalty
4 for the subject violation.

5 **42-72.11-8. Rules and regulations.**

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

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

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

14 SECTION 7. Section 40-6.2-1.1 of the General Laws in Chapter 40-6.2 entitled “Child
15 Care – State Subsidies” is hereby amended to read as follows:

16 **40-6.2-1.1. Rates established.**

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

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

31 Effective July 1, 2015, subject to the payment limitations in subsection (b), the maximum
32 reimbursement rates to be paid by the departments of human services and children, youth and
33 families for licensed child care centers and ~~certified~~ licensed family-child care providers shall be
34 based on the above schedule of the 75th percentile of the 2002 weekly market rates adjusted for the

1 average of the 75th percentile of the 2002 and the 2004 weekly market rates. These rates shall be
2 increased by ten dollars (\$10.00) per week for infant/toddler care provided by ~~certified~~ licensed
3 family-child care providers and license-exempt providers and then the rates for all providers for all
4 age groups shall be increased by three percent (3%). For the fiscal year ending June 30, 2018,
5 licensed child care centers shall be reimbursed a maximum weekly rate of one hundred ninety-three
6 dollars and sixty-four cents (\$193.64) for infant/toddler care and one hundred sixty-one dollars and
7 seventy-one cents (\$161.71) for pre-school age children.

8 (b) Effective July 1, 2018, subject to the payment limitations in subsection (c), the
9 maximum infant/toddler and pre-school age reimbursement rates to be paid by the departments of
10 human services and children, youth and families for licensed child care centers 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.

13 (1) For infant/toddler child care, tier one shall be reimbursed two and one-half percent
14 (2.5%) above the FY 2018 weekly amount, tier two shall be reimbursed five percent (5%) above
15 the FY 2018 weekly amount, tier three shall be reimbursed thirteen percent (13%) above the FY
16 2018 weekly amount, tier four shall be reimbursed twenty percent (20%) above the FY 2018 weekly
17 amount, and tier five shall be reimbursed thirty-three percent (33%) above the FY 2018 weekly
18 amount.

19 (2) For pre-school reimbursement rates, the tier one shall be reimbursed two and one-half
20 (2.5%) percent above the FY 2018 weekly amount, tier two shall be reimbursed five percent (5%)
21 above the FY 2018 weekly amount, tier three shall be reimbursed ten percent (10%) above the FY
22 2018 weekly amount, tier four shall be reimbursed thirteen percent (13%) above the FY 2018
23 weekly amount, and tier five shall be reimbursed twenty-one percent (21%) above the FY 2018
24 weekly amount.

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

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

1 ~~(d)~~(e) In order to expand the accessibility and availability of quality child care, the
2 department of human services is authorized to establish by regulation alternative or incentive rates
3 of reimbursement for quality enhancements, innovative or specialized child care and alternative
4 methodologies of child care delivery, including non-traditional delivery systems and
5 collaborations.

6 ~~(e)~~(f) ~~On or before~~ Effective January 1, 2007, all child care providers have the option to be
7 paid every two (2) weeks and have the option of automatic direct deposit and/or electronic funds
8 transfer of reimbursement payments.

9 SECTION 8. Chapter 42-102 of the General Laws entitled "Governor's Workforce Board
10 Rhode Island" is hereby amended by adding thereto the following section:

11 **42-102-10.1. Career opportunities for young adults.**

12 (a) The department of labor and training, governor's workforce board, and department of
13 children, youth and families shall work collaboratively to ensure that each young adult, as defined
14 in § 14-1-3 of the general laws, shall upon request by the young adult, receive a vocational
15 assessment and shall have access to all appropriate job training programs and eligible services.

16 (b) For those young adults who desire to participate in job training programs as part of their
17 permanency plan to achieve independence and self-sufficiency, the department of labor and
18 training, governor's workforce board, and department of children, youth and families shall work
19 collaboratively to devise an individual employment plan suitable to the talents and abilities of the
20 young adult determine which additional specialized workforce and supportive services may be
21 necessary to accomplish the goals of the plan and provide the additional services as needed.

22 (c) The governor's workforce board, in conjunction with the department of labor and
23 training, shall develop and expand career pathways, job training programs, and employment
24 services for young adults as defined in § 14-1-3 of the general laws.

25 (d) The department of labor and training, governor's workforce board, and department of
26 children, youth and families shall track movement of these young adults into the workforce, and
27 will publish an annual report on outcomes to the governor, the general assembly and the family
28 court.

29 (e) Programs and resources shall be contingent upon available funding.

30 SECTION 9. This Article shall take effect upon passage.

31