

2017 -- H 5395

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

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

Introduced By: Representatives Nardolillo, Vella-Wilkinson, Lima, Mendonca, and
Roberts

Date Introduced: February 03, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 72.11

4 PRESERVATION OF FAMILIES WITH DISABLED PARENT ACT

5 **42-72.11-1. Findings.**

6 The general assembly finds as follows:

7 (1) Individuals with disabilities continue to face unfair, preconceived, and unnecessary
8 societal biases as well as antiquated attitudes regarding their ability to successfully parent their
9 children;

10 (2) Individuals with disabilities face these biases and preconceived attitudes in family and
11 dependency law proceedings where custody and visitation are at stake and in public and private
12 adoption, guardianship, and foster care proceedings;

13 (3) Because of these societal biases and antiquated attitudes, children of parents with
14 disabilities are unnecessarily removed from their parents' care or restricted from enjoying
15 meaningful time with their parents; and

16 (4) Children are being denied the opportunity to enjoy the experience of living in loving
17 homes with parents with disabilities or other caretakers with disabilities.

18 **42-72.11-2. Purpose.**

1 The purpose of this chapter is to protect the best interests of children parented by
2 individuals with disabilities, or children who could be parented by individuals with disabilities
3 through the establishment of procedural safeguards that require adherence to the Americans with
4 Disabilities Act, and respect for the due process and equal protection rights of parents with
5 disabilities or prospective parents with disabilities in the context of child welfare, foster care,
6 family law and adoption.

7 **42-72.11-3. Definitions.**

8 When used in this chapter:

9 (1) "Disability" means a disability as defined in §42-87-1.

10 (2) "Supportive parenting services" means services that may assist a parent or prospective
11 parent with a disability in the effective use of techniques, technology and other alternative
12 methods to enable the parent or prospective parent to discharge parental responsibilities as
13 successfully as a parent who does not have a disability.

14 **42-72.11-4. Rights of disabled parent.**

15 (a) A parent's disability shall not serve as a basis for denial or restriction of visitation or
16 custody in family or dependency law cases when the visitation or custody is determined to be
17 otherwise in the best interest of the child.

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

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

23 (d)(1) Where a parent or prospective parent's disability is alleged to have a detrimental
24 impact on a child, the party raising the allegation bears the burden of proving by clear and
25 convincing evidence that the behaviors are endangering or will likely endanger the health, safety
26 or welfare of the child.

27 (2) If this burden is met, the parent or prospective parent with a disability shall have the
28 opportunity to demonstrate how the implementation of supportive parenting services can alleviate
29 any concerns that have been raised. The family court may require that the supportive parenting
30 services be put in place, with an opportunity to review the need for continuation of such services
31 within a reasonable period of time.

32 (3) If the court determines that a parent's right to custody, visitation, foster care,
33 guardianship, or adoption should be denied or limited in any manner, the court shall make
34 specific written findings stating the basis for the a determination, and why the provision of

1 [supportive parenting services is not a reasonable accommodation that must be made to prevent](#)
2 [such denial or limitation.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

1 This act would preclude the disability of a parent from serving as a basis for denial or
2 restriction in matters involving a child's welfare, foster care, family law, guardianship and
3 adoption without written findings by the family court.

4 This act would take effect upon passage.

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