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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- NATIONAL CRIMINAL
RECORDS CHECK

Introduced By: Representatives Ruggiero, Diaz, Slater, Ucci, and Fellela

Date Introduced: January 07, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 14-1-34 of the General Laws in Chapter 14-1 entitled "Proceedings
2 in Family Court" is hereby amended to read as follows:

3 **14-1-34. Placement of dependent and neglected children -- Criminal records of**
4 **foster parents made available.** -- (a) If, after a hearing on any petition, a child shall be found to
5 be dependent or neglected within the meaning of this chapter, the court shall by decree assign the
6 custody of the child to the director of children, youth and families, for any period that shall seem
7 fit to the court; and the director of children, youth, and families shall become entitled to the
8 custody of the child to the exclusion of any other person. The court may at any time, for good
9 cause shown, modify or revoke the decree.

10 (b) The department for children, youth and families shall apply to the bureau of criminal
11 identification of the state police or the local police department for a nationwide criminal records
12 check of prospective foster parents [or the department of children, youth and families may directly](#)
13 [process a nationwide criminal records check of prospective foster parents and any household](#)
14 [member age 18 and older.](#) The check will conform to the applicable federal standards including
15 the taking of fingerprints to identify the applicant. The department of children, youth, and
16 families shall request the attorney general, through the division of criminal identification, to make
17 available any criminal record of present and prospective foster parents. The attorney general shall
18 immediately comply with that request, and the department of children, youth, and families, shall

1 examine these records in determining the suitability of these persons to be foster parents. The
2 criminal record check shall be conducted without charge to the foster parents. At the conclusion
3 of the background check required in this section, the state police, attorney general or the local
4 police department shall promptly destroy the fingerprint record of the applicant obtained pursuant
5 to this chapter.

6 (c) No license shall be issued by the department of children, youth and families to any
7 individual seeking to be licensed as a foster parent until such time as the results of both the
8 nationwide and statewide criminal record background check, including the nature of any prior
9 criminal record, are forwarded to the department of children, youth and families. The department
10 may authorize the placement of a child in a prospective foster home pending licensure for a
11 period not to exceed six (6) months only after the department has conducted a DCYF background
12 check pursuant to § 40-13.2-3.1 and a statewide criminal record background check. In the event
13 the department is unable to complete the licensing process within six (6) months of the child's
14 placement in the foster home and if the department determines that continued placement of the
15 child in said foster home is in the child's best interest, the department shall file a petition with the
16 family court to seek authorization to allow the child(ren) to remain in the foster home pending
17 completion of the licensing process. The department shall provide notice of all such petitions to
18 the office of the child advocate, children(s) parent/guardian and CASA attorney.

19 SECTION 2. Section 15-7-11 of the General Laws in Chapter 15-7 entitled "Adoption of
20 Children" is hereby amended to read as follows:

21 **15-7-11. Investigation and report as to adoptive home.** -- (a) Upon the filing of a
22 petition so presented and consented to for the adoption of a minor child, the court shall notify the
23 department of children, youth and families. It shall then be the duty of the department to verify
24 the allegations of the petition, and to make appropriate investigation to determine whether the
25 proposed adoptive home is a suitable home for the child. The department shall within sixty (60)
26 days submit to the court a full report in writing, with recommendation as to the granting of the
27 petition and any other information regarding the child or the proposed home which the court shall
28 require. In circumstances where the petition for adoption concerns a child who has been placed
29 for adoption by a duly licensed child placement agency, the court may accept the home study
30 report of the child placement agency in lieu of the investigation and recommendation of the
31 department of children, youth and families; provided, the child placement agency includes in its
32 home study report any criminal record of the prospective adoptive parent. All costs relating to
33 criminal background checks shall be the responsibility of the public or private entity conducting
34 the home study;

1 (b) As part of the investigation or investigative home study report, a request shall be
2 made to the attorney general through the division of criminal identification to make available any
3 criminal record of the prospective adoptive parent maintained by the division. The prospective
4 adoptive parent, and any household member age 18 and older, shall apply to the bureau of
5 criminal identification of the state police or the local police department, or the department of
6 children, youth and families, for a nationwide criminal records check unless they have previously
7 submitted to a nationwide criminal records check in accordance with § 14-1-34 and/or §§ 40-
8 13.2-2, 40-13.2-4 and/or 40-13.2-5 and/or §§ 16-48.1-4 and 16-48.1-5. The attorney general shall
9 immediately comply with the request of the department or child placement agency and the report
10 of the attorney general shall be made part of the investigative home study submitted to court.

11 (c) Pursuant to § 40-13.2-4, the director of DCYF will determine by rules and
12 regulations those items of information appearing on a criminal records check which constitute
13 disqualifying information because that information would indicate the prospective adoptive
14 parent could endanger the health or welfare of a child or children. Upon the discovery of any
15 disqualifying information with respect to a proposed prospective adoptive parent, the agency
16 conducting the home study will be informed by the director in writing of the nature of the
17 disqualifying information.

18 (d) At the conclusion of any criminal records check required by this section, the
19 fingerprint card of the person subject to the nationwide criminal records check shall be promptly
20 destroyed.

21 (e) Provisions of this section may, in the discretion of the court, be waived in the case of
22 a petition for the adoption of a child where the child is the natural child of one of the parties
23 petitioning for the adoption and resides with the petitioning parties.

24 (f) Specific definitions and procedures for adoptive home studies are to be provided in
25 regulations promulgated by the department for children, youth and families in accordance with
26 the administrative procedures act. All investigative home studies submitted to the court shall be
27 based on a minimum of two (2) home visits by the agency conducting the home study. All
28 prospective siblings and any other household members shall be interviewed during a home visit.
29 Agencies conducting the home study shall have a minimum of one home visit following
30 completion of the home study process. A summary of the agency's past and present contact with
31 the prospective adoptive family shall be included in the home study. The agency shall include in
32 the home study its recommendations for approval or disapproval of the adoption and the reasons
33 for its conclusion.

34 (g) The following information shall be included in all home studies submitted to the

1 court:

2 (1) Identifying information on all household members, including minor children and the
3 current needs of each child;

4 (2) Information regarding the prospective adoptive parent's motivation and reasons for
5 the adoption;

6 (3) Current background information on the prospective adoptive parents, including
7 written self-assessment;

8 (4) Child care experience and parenting philosophy of the prospective adoptive parents;

9 (5) Information regarding past and present marriage and/or partnership relationships;

10 (6) Current medical and psychological conditions, including addiction to drugs or
11 alcohol of any prospective adoptive parents, that may be seriously detrimental to the health and
12 welfare of children;

13 (7) Description of the home and local community, including any health and safety
14 concerns regarding the home;

15 (8) Information regarding the finances and employment of the prospective adoptive
16 parents;

17 (9) Reference letters from at least three (3) individuals at least two (2) of whom are non-
18 relatives;

19 (10) Results of background checks with DCYF and clearance checks regarding state and
20 federal criminal records conducted on the prospective adoptive parents [and any household](#)
21 [member age 18 and older](#);

22 (11) Information related to the prospective adoptive parent's willingness and ability to
23 accept and cooperate with adoption support services, including their level of understanding
24 regarding openness with birth family; and

25 (12) Information related to the match between prospective adoptive parents and the
26 child, including attitudes and capabilities of prospective adoptive parents and the child's
27 characteristics and background.

28 SECTION 3. Sections 40-13.2-4, 40-13.2-5 and 40-13.2-5.2 of the General Laws in
29 Chapter 40-13.2 entitled "Certification of Child Care and Youth Serving Agency Workers" are
30 hereby amended to read as follows:

31 **40-13.2-4. Criminal records check -- Operators of child care facilities which must be**
32 **licensed or registered with the department. --** Any person seeking to operate a facility, which
33 is, or is required to be, licensed or registered with the department shall apply to the Rhode Island
34 bureau of criminal identification, [or the department of children, youth and families](#), for a

1 nationwide criminal records check. The check will conform to the applicable federal standards,
2 including the taking of fingerprints to identify the applicant and any expense associated with
3 providing the criminal records check shall be paid by the applicant and/or requesting agency. The
4 director will determine by rule those items of information appearing on a criminal records check,
5 which constitute disqualifying information because that information would indicate that the
6 employment could endanger the health or welfare of a child or children. Upon the discovery of
7 any disqualifying information with respect to a proposed operator, the Rhode Island bureau of
8 criminal identification will inform the director, in writing, of the nature of the disqualifying
9 information.

10 **40-13.2-5. Criminal records check -- Employee of child care facilities which must be**

11 **licensed by the department.** -- (a) Any person seeking employment, if that employment involves
12 supervisory or disciplinary power over a child or children or involves routine contact with a child
13 or children without the presence of other employees, in any facility which is, or is required to be,
14 licensed or registered with the department or seeking that employment at the training school for
15 youth shall, after acceptance by the employer of the affidavit required by § 40-13.2-3, apply to
16 the bureau of criminal identification of the state police or the local police department, or the
17 department of children, youth and families, for a nationwide criminal records check. The check
18 will conform to applicable federal standards including the taking of fingerprints to identify the
19 applicant.

20 (b) Upon the discovery of any disqualifying information as defined in accordance with
21 the rule promulgated by the director, the bureau of criminal identification of the state police or the
22 local police department will inform the applicant, in writing, of the nature of the disqualifying
23 information. In addition, the bureau of criminal identification of the state police or the local
24 police department will inform the relevant employer, in writing, without disclosing the nature of
25 the disqualifying information, that an item of disqualifying information has been discovered.

26 (c) In those situations in which no disqualifying information has been found, the bureau
27 of criminal identification of the state police or the local police department will inform both the
28 applicant and the employer, in writing, of this fact.

29 (d) The employer will maintain on file, subject to inspection by the department, evidence
30 that criminal records checks have been initiated on all employees seeking employment after
31 August 1, 1985, and the results of the checks.

32 (e) Failure to maintain that evidence on file will be prima facie grounds to revoke the
33 license or registration of the operator of the facility.

34 (f) It will be the responsibility of the bureau of criminal identification of the state police

1 or the local police department, [or the department of children, youth and families](#), to conduct the
2 nationwide criminal records check pursuant to this section. The nationwide criminal records
3 check will be provided to the applicant for employment without charge.

4 **40-13.2-5.2. Criminal records check -- Employees of the department of children,**
5 **youth and families.** -- (a) Any person seeking employment with the department of children,
6 youth and families shall apply to the bureau of criminal identification (BCI), department of
7 attorney general, state police, or local police department where the applicant resides, [or the](#)
8 [department of children, youth and families](#), for a national and state criminal records check. The
9 check shall conform to the applicable federal standards including the taking of fingerprints to
10 identify the applicant. The director shall determine by rule those items of information appearing
11 on a criminal records check which constitute disqualifying information because the information
12 would indicate that employment could endanger the health or welfare of a child or children and
13 would be inconsistent with the purpose and intent of the department of children, youth and
14 families.

15 (b) The department of attorney general, the state police or the local police department
16 shall forward the results of the nationwide and state criminal record checks, including the nature
17 of any criminal record, on the individual to the individual and to the department of children,
18 youth and families. Upon the discovery of any disqualifying information with respect to an
19 applicant, the department of children, youth and families shall inform the applicant of the
20 disqualifying information.

21 (c) The cost of criminal record checks required by this section for individuals who are
22 not currently employed by the State of Rhode Island shall be the responsibility of the applicant.
23 The cost of criminal records checks required by this section for individuals who are currently
24 employed by the State of Rhode Island shall be the responsibility of the department of children,
25 youth and families.

26 (d) Any individual required to submit to a criminal background check, state and/or
27 federal, under subsection (a) above who has submitted to a criminal background check conducted
28 within the previous six (6) months in accordance with § 14-1-34 and/or § 15-7-11 and/or §§ 40-
29 13.2-2, 40-13.2-4, 40-13.2-5, and/or § 40-13.2-9, shall be exempt from an additional check but
30 shall request the department of attorney general, the state police or the local police department
31 which conducted the check forward the results, including the nature of the criminal record, to the
32 department of children, youth and families.

33 SECTION 4. Section 42-72-5 of the General Laws in Chapter 42-72 entitled "Department
34 of Children, Youth, and Families" is hereby amended to read as follows:

1 **42-72-5. Powers and scope of activities.** -- (a) The department is the principal agency of
2 the state to mobilize the human, physical, and financial resources available to plan, develop, and
3 evaluate a comprehensive and integrated statewide program of services designed to ensure the
4 opportunity for children to reach their full potential. The services include prevention, early
5 intervention, outreach, placement, care and treatment, and after-care programs; provided,
6 however, that the department notifies the state police and cooperates with local police
7 departments when it receives and/or investigates a complaint of sexual assault on a minor and
8 concludes that probable cause exists to support the allegations(s). The department also serves as
9 an advocate for the needs of children.

10 (b) To accomplish the purposes and duties, as set forth in this chapter, the director is
11 authorized and empowered:

12 (1) To establish those administrative and operational divisions of the department that the
13 director determines is in the best interests of fulfilling the purposes and duties of this chapter;

14 (2) To assign different tasks to staff members that the director determines best suit the
15 purposes of this chapter;

16 (3) To establish plans and facilities for emergency treatment, relocation, and physical
17 custody of abused or neglected children that may include, but are not limited to,
18 homemaker/educator child case aides, specialized foster family programs, day care facilities,
19 crisis teams, emergency parents, group homes for teenage parents, family centers within existing
20 community agencies, and counseling services;

21 (4) To establish, monitor, and evaluate protective services for children including, but not
22 limited to, purchase of services from private agencies and establishment of a policy and
23 procedure manual to standardize protective services;

24 (5) To plan and initiate primary and secondary treatment programs for abused and
25 neglected children;

26 (6) To evaluate the services of the department and to conduct periodic comprehensive
27 needs assessment;

28 (7) To license, approve, monitor, and evaluate all residential and non-residential child
29 care institutions, group homes, foster homes, and programs;

30 (8) To recruit and coordinate community resources, public and private;

31 (9) To promulgate rules and regulations concerning the confidentiality, disclosure, and
32 expungement of case records pertaining to matters under the jurisdiction of the department;

33 (10) To establish a minimum mandatory level of twenty (20) hours of training per year
34 and provide ongoing staff development for all staff; provided, however, all social workers hired

1 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social
2 work or a closely related field, and must be appointed from a valid civil service list;

3 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to
4 chapter 11 of title 40;

5 (12) To promulgate all rules and regulations necessary for the execution of departmental
6 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;

7 (13) To provide and act as a clearinghouse for information, data, and other materials
8 relative to children;

9 (14) To initiate and carry out studies and analysis that will aid in solving local, regional,
10 and statewide problems concerning children;

11 (15) To represent and act on behalf of the state in connection with federal grant programs
12 applicable to programs for children in the functional areas described in this chapter;

13 (16) To seek, accept, and otherwise take advantage of all federal aid available to the
14 department, and to assist other agencies of the state, local agencies, and community groups in
15 taking advantage of all federal grants and subventions available for children;

16 (17) To review and coordinate those activities of agencies of the state, and of any
17 political subdivision of the state, that affect the full and fair utilization of community resources
18 for programs for children, and initiate programs that will help ensure utilization;

19 (18) To administer the pilot juvenile restitution program, including the overseeing and
20 coordinating of all local community-based restitution programs, and the establishment of
21 procedures for the processing of payments to children performing community service; and

22 (19) To adopt rules and regulations that:

23 (i) For the twelve-month (12) period beginning on October 1, 1983, and for each
24 subsequent twelve-month (12) period, establish specific goals as to the maximum number of
25 children who will remain in foster care for a period in excess of two (2) years; and

26 (ii) Are reasonably necessary to implement the child welfare services and foster care
27 programs;

28 (20) May establish and conduct seminars for the purpose of educating children regarding
29 sexual abuse;

30 (21) To establish fee schedules by regulations for the processing of requests from
31 adoption placement agencies for adoption studies, adoption study updates, and supervision related
32 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)
33 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);

34 (22) To be responsible for the education of all children who are placed, assigned, or

1 otherwise accommodated for residence by the department in a state-operated or -supported
2 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility, the
3 department is authorized to enroll and pay for the education of students in the public schools or,
4 when necessary and appropriate, to itself provide education in accordance with the regulations of
5 the board of regents for elementary and secondary education either directly or through contract;

6 (23) To develop multidisciplinary service plans, in conjunction with the department of
7 health, at hospitals prior to the discharge of any drug-exposed babies. The plan requires the
8 development of a plan using all health care professionals.

9 (24) To be responsible for the delivery of appropriate mental health services to seriously
10 emotionally disturbed children and children with functional developmental disabilities.
11 Appropriate mental health services may include hospitalization, placement in a residential
12 treatment facility, or treatment in a community-based setting. The department is charged with the
13 responsibility for developing the public policy and programs related to the needs of seriously
14 emotionally disturbed children and children with functional developmental disabilities.

15 In fulfilling its responsibilities the department shall:

16 (i) Plan a diversified and comprehensive network of programs and services to meet the
17 needs of seriously emotionally disturbed children and children with functional developmental
18 disabilities;

19 (ii) Provide the overall management and supervision of the state program for seriously
20 emotionally disturbed children and children with functional developmental disabilities;

21 (iii) Promote the development of programs for preventing and controlling emotional or
22 behavioral disorders in children;

23 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of
24 seriously emotionally disturbed children and children with functional developmental disabilities
25 and to work with private agencies serving those children;

26 (v) Promote the development of new resources for program implementation in providing
27 services to seriously emotionally disturbed children and children with functional developmental
28 disabilities.

29 The department shall adopt rules and regulations that are reasonably necessary to
30 implement a program of mental health services for seriously emotionally disturbed children.

31 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at
32 least in accordance with rules and regulations to be adopted by the department, at least its average
33 per-pupil cost for special education for the year in which placement commences, as its share of
34 the cost of educational services furnished to a seriously emotionally disturbed child pursuant to

1 this section in a residential treatment program which includes the delivery of educational services.

2 "Seriously emotionally disturbed child" means any person under the age of eighteen (18)
3 years or any person under the age of twenty-one (21) years who began to receive services from
4 the department prior to attaining eighteen (18) years of age and has continuously received those
5 services thereafter who has been diagnosed as having an emotional, behavioral, or mental
6 disorder under the current edition of the Diagnostic and Statistical Manual and that disability has
7 been on-going for one year or more or has the potential of being ongoing for one year or more,
8 and the child is in need of multi-agency intervention, and the child is in an out-of-home
9 placement or is at risk of placement because of the disability.

10 A child with a "functional developmental disability" means any person under the age of
11 eighteen (18) years or any person under the age of twenty-one (21) years who began to receive
12 services from the department prior to attaining eighteen (18) years of age and has continuously
13 received those services thereafter.

14 The term "functional developmental disability" includes autism spectrum disorders and
15 means a severe, chronic disability of a person that:

16 (A) Is attributable to a mental or physical impairment or combination of mental physical
17 impairments;

18 (B) Is manifested before the person attains age eighteen (18);

19 (C) Is likely to continue indefinitely;

20 (D) Results in age- appropriate substantial functional limitations in three (3) or more of
21 the following areas of major life activity.

22 (I) Self-care;

23 (II) Receptive and expressive language;

24 (III) Learning;

25 (IV) Mobility;

26 (V) Self direction;

27 (VI) Capacity for independent living; and

28 (VII) Economic self-sufficiency; and

29 (E) Reflects the person's need for a combination and sequence of special,
30 interdisciplinary, or generic care, treatment, or other services that are of life-long or extended
31 duration and are individually planned and coordinated.

32 Funding for these clients shall include funds that are transferred to the department of
33 human services as part of the managed health care program transfer. However, the expenditures
34 relating to these clients shall not be part of the department of human services' caseload estimated

1 for the semi-annual caseload estimating conference. The expenditures shall be accounted for
2 separately.

3 (25) To provide access to services to any person under the age of eighteen (18) years or
4 any person under the age of twenty-one (21) years who began to receive child welfare services
5 from the department prior to attaining eighteen (18) years of age, has continuously received those
6 services thereafter and elects to continue to receive such services after attaining the age of
7 eighteen (18) years. The assembly has included funding in the FY 2008 department of children,
8 youth and families budget in the amount of \$10.5 million from all sources of funds and \$6.0
9 million from general revenues to provide a managed system to care for children serviced between
10 18 to 21 years of age. The department shall manage this caseload to this level of funding.

11 (26) To initiate transition planning in cooperation with the department of behavioral
12 healthcare, developmental disabilities and hospitals and local school departments for any child
13 who receives services through the department of children, youth and families, is seriously
14 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(24)(v), and whose care
15 may or shall be administered by the department of behavioral healthcare, developmental
16 disabilities and hospitals after the age of twenty-one (21) years, the transition planning shall
17 commence at least twelve (12) months prior to the person's twenty-first birthday and shall result
18 in a collaborative plan submitted to the family court by both the department of behavioral
19 healthcare, developmental disabilities and hospitals and the department of children, youth and
20 families and shall require the approval of the court prior to the dismissal of the abuse, neglect,
21 dependency, or miscellaneous petition before the child's twenty-first birthday.

22 (27) To develop and maintain, in collaboration with other state and private agencies, a
23 comprehensive continuum of care in this state for children in the care and custody of the
24 department or at risk of being in state care. This continuum of care should be family centered and
25 community based with the focus of maintaining children safely within their families or, when a
26 child cannot live at home, within as close proximity to home as possible based on the needs of the
27 child and resource availability. The continuum should include community-based prevention,
28 family support, and crisis intervention services, as well as a full array of foster care and
29 residential services, including residential services designed to meet the needs of children who are
30 seriously emotionally disturbed, children who have a functional developmental disability, and
31 youth who have juvenile justice issues. The director shall make reasonable efforts to provide a
32 comprehensive continuum of care for children in the care and custody of the department of
33 children, youth and families, taking into account the availability of public and private resources
34 and financial appropriations and the director shall submit an annual report to the general assembly

1 as to the status of his or her efforts in accordance with the provisions of subsection 42-72-
2 4(b)(13).

3 (28) To administer funds under the John H. Chafee Foster Care Independence and
4 Educational And Training Voucher (ETV) Programs of Title IV-E of the Social Security Act, and
5 the department of children, youth and families higher education opportunity grant program as
6 outlined in chapter 72.8 of title 42, in accordance with rules and regulations as promulgated by
7 the director of the department.

8 (29) To process nationwide criminal record checks on prospective foster parents and any
9 household member age 18 or older, prospective adoptive parents and any household member age
10 18 and older, operators of child care facilities, persons seeking employment in a child care facility
11 or at the training school for youth or on behalf of any person seeking employment at the
12 department of children, youth and families, who are required to submit to nationwide criminal
13 background checks as a matter of law.

14 (c) In order to assist in the discharge of his or her duties, the director may request from
15 any agency of the state information pertinent to the affairs and problems of children.

16 (d) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

17 (e) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

18 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- NATIONAL CRIMINAL
RECORDS CHECK

1 This act would allow the department of children, youth and families to process
2 nationwide criminal record checks on prospective foster parents, prospective adoptive parents and
3 any household member age 18 and older, operators of child care facilities, persons seeking
4 employment in a child care facility or at the training school for youth or on behalf of any person
5 seeking employment at the department of children, youth and families who are required to submit
6 to nationwide criminal background checks as a matter of law.

7 This act would take effect upon passage.

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