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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO DOMESTIC RELATIONS -- SUPPORT OF CHILDREN

Introduced By: Representatives Menard, Flaherty, Naughton, E Coderre, and MacBeth

Date Introduced: May 11, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 15-9 of the General Laws entitled "Support of Children" is hereby
2 amended by adding thereto the following section:

3 **15-9-6. Duty of parent to pay support and maintenance of severely impaired child. --**

4 (a) Notwithstanding any provision of the general or public laws to the contrary, the court, in its
5 discretion, may order child support to continue, in the case of a child with a severe physical or
6 mental impairment still living with or under the care of a parent, beyond the child's eighteenth
7 (18th) birthday or any other emancipation event. The court shall consider the following factors
8 when making its determination: (1) The nature and extent of the disability; (2) The cost of the
9 extraordinary medical expenses; (3) The ability of the child to earn income; (4) The financial
10 resources of the child; (5) The financial resources of the parents; (6) The inability of the primary
11 caregiver of the child to sustain gainful employment on a full-time basis due to the care
12 necessitated by the child. The onset of the disability must have occurred prior to the child's
13 eighteenth (18th) birthday or any other emancipation event. The court has the discretion to order
14 child support based upon established child support guidelines. The court may periodically review
15 the case to determine if circumstances warrant the continuation of child support.

16 (b) The court may, if in its discretion it deems it necessary or advisable, appoint an
17 attorney or a guardian ad litem to represent the interest of the severely impaired child with respect
18 to his or her support.

1 (1) In determining whether an appointment should be made, the court shall consider the
2 extent to which a guardian ad litem may assist in providing information concerning the best
3 interest of the child; the age of the child; the wishes of the parents as well as their financial
4 resources; the nature of the proceeding, including the level of contentiousness, allegations of
5 child abuse or domestic violence and the risk of harm to the child if a guardian is not appointed;
6 or conflicts of interest between the child and parents or siblings;

7 (2) The guardian ad litem shall be appointed from a list of persons properly credentialed
8 pursuant to administrative orders of the chief judge of the family court;

9 (3) The court shall enter an order of appointment stating the specific assignment the
10 optional and mandatory duties of the guardian ad litem, the guardian's access to the child and
11 confidential information regarding the child, and a provision for payment of the costs and fees of
12 the guardian ad litem;

13 (4) Communications made to a guardian, including those made by a child, are not
14 privileged and may or may not be disclosed to the parties, the court or to professionals providing
15 services to the child or the family;

16 (5) The guardian ad litem shall meet with the child, conduct an investigation and upon
17 request of the court shall prepare an oral or written report that contains the procedural background
18 of the case, identification of all persons interviewed and other sources of information, a statement
19 of the child's emotional, medical, educational and social service needs, the child's wishes and
20 other factors relevant to the court's determination regarding the best interests of the child;

21 (6) Any written report of the guardian ad litem shall be marked as a full exhibit in the
22 proceedings, subject to cross-examination;

23 (7) If the guardian ad litem requests confidential health care information and consent is
24 withheld, he or she shall apply to the court for leave to obtain such information after compliance
25 with section 5-37.3-6.1;

26 (8) The guardian ad litem shall be given notice of and should appear at all proceedings in
27 family court that affect the interests of the child;

28 (9) A person serving as a guardian ad litem under this section acts as the court's agent and
29 is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the
30 guardian ad litem;

31 (10) The chief judge of the family court shall issue, through administrative orders, rules
32 governing the appointment and performance of guardians ad litem in domestic proceedings.

33 (c) After a decree for child support has been entered, the court may, from time to time,
34 upon the petition of any interested party review and alter its decree relative to the amount of

1 support and the payment of it, and may make any decree relative to it which it might have made
2 in the original suit. The decree may be made retroactive in the court's discretion only to the date
3 that notice of a petition to modify was given to the adverse party if the court finds that a
4 substantial change in circumstances has occurred; provided, that the court shall set forth in its
5 decision the specific findings of fact which show a substantial change in circumstances and upon
6 which findings of facts the court has decided to make the decree retroactive. The child support
7 order shall continue in full force and effect, by wage withholding and shall be applied towards
8 any arrearage due and owing, as indicated on the child support computer system. Upon
9 satisfaction of the arrears due and owing, the child support order shall be automatically suspended
10 and wage withholding terminated without the necessity of returning to family court.

11 (d) In a proceeding to enforce a child support order, the court or its magistrate may assign
12 to the obligee such tangible personal property of the obligor that will be sufficient to satisfy the
13 child support arrearage owed. The court or its magistrate, after a hearing, shall establish the
14 amount of the child support arrearage, and the nature and value of the tangible personal property.
15 To effect the assignment, the court or its magistrate may order the obligor to execute and deliver
16 the documents of title which may be necessary to complete the transfer of title to the property,
17 and may order the obligor to deliver possession of the property to the obligee. Whenever the
18 obligor fails to comply with the order assigning the property, the order of assignment shall be
19 regarded as a judgment vesting title to the property in the obligor as fully and completely as if the
20 obligor had executed and delivered the documents of title.

21 (e) Any order for child support issued by the family court shall contain a provision
22 requiring either or both parents owing a duty of child support to obtain health insurance coverage
23 for the severely impaired child when coverage is available to the parent or parents through their
24 employment without cost or at a reasonable cost. "Reasonable cost" shall be defined in
25 accordance with guidelines adopted by administrative order of the family court in conjunction
26 with the child support guidelines.

27 (f) Any existing child support orders may be modified in accordance with this subsection
28 unless the court makes specific written findings of fact that take into consideration the best
29 interests of the severely impaired child and conclude that a child support order or medical order
30 would be unjust or inappropriate in a particular case.

31 (g) In addition, the national medical support notice shall be issued with respect to all
32 orders issued, enforced, or modified on or after October 1, 2002, in accordance with chapter 29 of
33 title 15. The notice shall inform the employer of provisions in the support order for health care
34 coverage for the severely impaired child and contain instructions on how to implement this

1 coverage. In lieu of the court ordering the parent to obtain or maintain health care coverage for
2 the child, the court may order the parent to contribute a weekly cash amount towards the medical
3 premium for health care coverage paid by the State of Rhode Island and/or the other parent. The
4 method to determine a reasonable weekly amount shall be addressed in the family court
5 administrative order pertaining to the child support guidelines.

6 (h) In a proceeding to establish child support, the court in its discretion may, after
7 opportunity for a hearing, issue a temporary order for child support payable into the registry of
8 the court and to be held pending entry of judgment. In the event of a final adjudication requiring
9 no payment or payments in an amount less than those payments which have been made pursuant
10 to a temporary order under this section, the defendant shall be entitled to a refund of all or a
11 portion of the amounts paid.

12 (i) In any proceeding to establish child support, or in any case in which an obligor owes
13 past due child support, the court or its magistrate, upon a finding that an able bodied absent parent
14 obligor is unemployed, underemployed or lacks sufficient income or resources from which to
15 make payment of child support equal to the public assistance payment for the severely impaired
16 child or children, or is unable to pay the arrearages in accordance with a payment plan, may order
17 that parent to perform unpaid community service for at least twenty (20) hours per week through
18 community service placements arranged and supervised by the department of human services or
19 to participate in any work activities that the court deems appropriate. The performance of
20 community service shall not be a basis for retroactive suspension of arrears due and owing.

21 (j) In any proceeding to establish child support for a severely impaired child whose
22 adjudicated parent is a minor (minor-parent), the court or its magistrate may order a grandparent
23 of the minor child to reimburse the department of human services in an amount not to exceed the
24 total amount of cash assistance benefits paid to or for the minor child pursuant to chapter 5.1 of
25 title 40 until the minor-parent reaches the age of eighteen (18), less any payment made to the
26 department by the minor-parent.

27 (l) The obligation of reimbursement for the severely impaired child shall be the joint and
28 several responsibility of the minor-parent and the grandparent(s) until the minor-parent reaches
29 the age of eighteen (18); provided, that each joint obligor shall have a right of contribution
30 against each joint obligor, which right shall be enforceable by an action in the family court.

31 (k) All support orders established or modified in the state on or after October 1, 1998,
32 shall be recorded with the Rhode Island family court department of human services child support
33 computer enforcement system, which maintains the official registry of child support orders
34 entered in accordance with applicable administrative orders issued by the Rhode Island family

1 court. The child support order shall be recorded whether or not services are being provided under
2 the IV-D state plan.

3 (l) The obligee to a child support proceeding shall be required to file with the family
4 court, upon the entry of the order, the appropriate form as provided by family court which
5 includes the full name of the parties, residential and mailing address, telephone number, drivers
6 license number, social security number and the name, address and telephone number of the
7 employer. The form shall also include the full order amount and date and amount of arrearages if
8 any, the name of the severely impaired child(ren), their date of birth, address and social security
9 number and any other information as required by administrative order.

10 (1) After this, each party is required to file an amended form whenever any of the
11 information contained on the original form has been changed in any way, within ten (10) days of
12 the change. The information shall be entered in the child support enforcement computer system
13 within five (5) business days of receipt of the amended form.

14 (m) In any subsequent child support enforcement action between the parties, upon
15 sufficient showing that diligent effort has been made to ascertain the location of such a party, the
16 court may deem state due process requirements for notice and service of process to be met with
17 respect to the party, upon service by first class mail or, where appropriate, by service as specified
18 in the Rhode Island rules of procedure for domestic relations for the family court of Rhode Island,
19 of written notice to the most recent residential or employer address of record.

20 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 DOMESTIC RELATIONS -- SUPPORT OF CHILDREN

- 1 This act would authorize the court to order parent(s) to pay child support for any severely
- 2 impaired child regardless of the child's age. Any interested party may commence proceedings
- 3 and may do so regardless of whether or not there is a divorce action pending.
- 4 This act would take effect upon passage.

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