

2011 -- H 5746

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

Introduced By: Representatives DaSilva, Bennett, Guthrie, Williams, and McCauley

Date Introduced: March 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-72-15 of the General Laws in Chapter 42-72 entitled
2 "Department of Children, Youth, and Families" is hereby amended to read as follows:

3 **42-72-15. Children's bill of rights.** -- (a) No child placed or treated under the
4 supervision of the department in any public or private facility shall be deprived of any personal
5 property or civil rights, except in accordance with due process.

6 (b) Each child placed or treated under the supervision of the department in any public or
7 private facility shall receive humane and dignified treatment at all times, with full respect for the
8 child's personal dignity and right to privacy, consistent with the child's treatment plan.

9 (c) Each child placed in a secure facility under the supervision of the department shall be
10 permitted to communicate with any individual, group, or agency consistent with the child's
11 treatment objectives; shall be provided writing materials and postage; and shall be permitted to
12 make or receive telephone calls to or from his or her attorneys, guardians ad litem, special
13 advocates, or child advocate at any reasonable time.

14 (d) The department shall adopt rules and regulations pursuant to the Administrative
15 Procedures Act, title 42, chapter 35, regarding children placed in secure facilities to specify the
16 following:

17 (1) When a child may be placed in restraint or seclusion or when force may be used upon
18 a child;

1 (2) When the head of a facility may limit the use or receipt of mail by any child and a
2 procedure for return of unopened mail; and

3 (3) When the head of a facility may restrict the use of a telephone by any child.

4 (e) A copy of any order placing a child at a secure facility under the supervision of the
5 department in restraint or seclusion shall be made a part of the child's permanent clinical record.
6 In addition, any special restriction on the use or receipt of mail or telephone calls shall be noted in
7 writing, signed by the head of the facility or the facility head's designee, and made a part of the
8 child's permanent clinical record.

9 (f) Each child placed or treated in a secure facility under the supervision of the
10 department shall be permitted to receive visitors subject to reasonable restriction consistent with
11 the child's treatment plan. The head of each facility shall establish visiting hours and inform all
12 children and their families and other visitors of these hours. Any special restrictions shall be
13 noted in writing, signed by the head of the facility or his or her designee, and made a part of the
14 child's permanent clinical record.

15 (g) Each child may receive his or her clergyman, attorney, guardian ad litem, special
16 advocate, or child advocate at any reasonable time.

17 (h) No person shall be denied employment, housing, civil service rank, any license or
18 permit, including a professional license, or any other civil or legal right, solely because of a
19 present or past placement with the department except as otherwise provided by statute.

20 (i) Each child under the supervision of the department shall have the right to counsel,
21 and the right to receive visits from physicians and mental health professionals.

22 (j) Each child shall have a right to a hearing pursuant to rules and regulations
23 promulgated by the department if the child is involuntarily transferred by the department to any
24 facility outside of the state in accordance with the procedure set forth in section 42-72-14.

25 (k) The children's bill of rights shall be posted in a conspicuous place within any secure
26 facility for the residential housing of children.

27 (l) Every deliverer of services with whom the department enters into a purchased
28 services agreement shall agree, in writing, to observe and post in a conspicuous place, the
29 children's bill of rights.

30 (m) Any child aggrieved by a violation of the children's bill of rights may petition the
31 family court for appropriate equitable relief. The family court shall have exclusive original
32 jurisdiction, notwithstanding any remedy contained in chapter 35 of this title.

33 (n) A child victim or witness shall be afforded the protections of section 12-28-9 under
34 the direction of the department of children, youth, and families, and the department shall advise

1 the court and the police and the prosecutor on the capacity of the child victim to understand and
2 participate in the investigation and in the court proceedings and of the potential effect of the
3 proceedings on the child.

4 (o) Every child placed in the care of the department of children, youth, and families shall
5 be entitled to a free appropriate education, in accordance with state and federal law. Immediately
6 upon the assumption of that care, the department shall provide for the enrollment of each child in
7 a school program. During the time that the child shall remain in that care, the department and
8 appropriate state and local education agencies shall coordinate their efforts in order to provide for
9 the timely initiation and continuation of educational services.

10 (p) No person shall be denied access to available treatment for an alcohol or drug related
11 condition, solely because of a present or past placement with the department.

12 (q) No person shall be remanded to an out of state placement by the Rhode Island family
13 court.

14 (r) No person in the custody of the department of children, youth and families in the State
15 of Rhode Island will be sent out of state for residential placement or residential treatment.

16 (s) An exception shall be made as to subsections (q) and (r) if the person is first assessed
17 by the department of children, youth and families in the State of Rhode Island or the department
18 of corrections and is found to present a security risk and there exists a need to move the person to
19 a facility outside of the State of Rhode Island.

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 STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

1 This act would require that before a person could be remanded to out of state placement
2 by the Rhode Island family court or sent out of state for residential placement or residential
3 treatment, they will first be assessed by the department of children, youth and families or the
4 department of corrections and found to present a security risk and a need to move the person to a
5 facility outside of Rhode Island.

6 This act would take effect upon passage.

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