

ARTICLE 22 SUBSTITUTE A AS AMENDED

RELATING TO DELINQUENT AND DEPENDENT CHILDREN

Section 1. Sections 14-1-6, 14-1-7.3, 14-1-27, 14-1-32, 14-1-34, and 14-1-36 of Chapter 14-1 entitled “Proceedings in Family Court” are hereby amended to read as follows:

14-1-6. Retention of jurisdiction. -- (a) When the court shall have obtained jurisdiction over any child prior to the child ~~’s eighteenth~~ having attained the age of seventeen years birthday by the filing of a petition alleging that the child is wayward or delinquent ~~comes within the jurisdiction of the court~~ pursuant to § 14-1-5, the child shall, except as specifically provided in this chapter, continue under the jurisdiction of the court until he or she becomes ~~twenty-one (21)~~ nineteen (19) years of age, unless discharged prior to turning nineteen (19). When the court shall have obtained jurisdiction over any child prior to the child’s eighteenth birthday by the filing of a petition alleging that the child is dependent, neglected and abused pursuant to § 14-1-5 and 40-11-7, the child shall, except as specifically provided in this chapter, continue under the jurisdiction of the court until he or she becomes eighteen (18) years of age; provided, that prior to an order of discharge or emancipation being entered, the court shall require the department of children, youth, and families to provide a description of the transition services afforded the child in placement or a detailed explanation as to the reason those services were not offered; provided further that any youth who comes within the jurisdiction of the court by the filing of a wayward or delinquent petition based upon an offense which was committed prior to July 1,2007, including youth who are adjudicated and committed to the Rhode Island Training School and who are placed in a temporary community placement as authorized by the family court, may continue under the jurisdiction of the court until he or she turns twenty one (21) years of age.

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

(e) (b) In any case where the court shall not have acquired jurisdiction over any person prior to the person's attaining the age of seventeen years ~~twenty-first birthday~~ by the filing of a petition alleging that the person had committed an offense prior to the person's ~~eighteenth~~ attaining the age of seventeen years ~~birthday~~ which would be punishable as a felony if committed by an adult, that person shall be referred to the court which would have had jurisdiction over the offense if it had been committed by an adult. The court shall have jurisdiction to try that person for the offense committed prior to the person attaining the age of seventeen years ~~his or her~~ ~~eighteenth birthday~~ and, upon conviction, may impose a sentence not exceeding the maximum penalty provided for the conviction of that offense.

(c) Any person who has attained the age of seventeen years or older who commits an offense which would constitute a felony or a misdemeanor if committed by an adult prior to his or her eighteenth birthday, that person shall be referred to the court which would have had jurisdiction over the offense if it had been committed by an adult. The court shall have jurisdiction to try that person for the offense committed prior to his or her eighteenth birthday and, upon conviction, may impose a sentence not exceeding the maximum penalty provided for the conviction of that offense.

(d) In any case where the court has certified and adjudicated a child in accordance with the provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the power and authority to sentence the child to a period in excess of the age of nineteen (19) ~~twenty-one (21)~~ years. However, in no case shall the sentence be in excess of the maximum penalty provided by statute for the conviction of the offense.

(e) Nothing in this section shall be construed to affect the jurisdiction of other courts over offenses committed by any person after he or she reaches the age of nineteen (19) years.

14-1-7.3. Certification – Effect. -- (a) Upon a finding by the court that the child is subject to certification pursuant to § 14-1-7.2, the court shall afford the child a right to a jury trial, and upon conviction for the offense charged, the court shall sentence the child in accordance with one of the following alternatives:

(1) Impose a sentence upon the child to the training school for youth until the time that the child attains the age of ~~twenty-one (21)~~ nineteen (19) years;

(2) Impose a sentence upon the child for a period in excess of the child's ~~twenty-first~~ nineteenth birthday to the adult correctional institutions, with the period of the child's minority to be served in the training school for youth in a facility to be designated by the court. However, the sentence shall not exceed the maximum sentence provided for by statute for conviction of the

1 offense.

2 (b) Any child who is certified shall not be eligible for release from the training school for
3 youth unless, after hearing, the certifying judge, or the chief judge in his or her absence, or his or
4 her designee, determines by clear and convincing evidence that the child will not pose a threat to
5 the public during the term of the release.

6 (c) In the event that the court has modified the order of certification pursuant to § 14-1-42
7 by suspending the balance of the sentence imposed, any violation of the terms of the suspended
8 sentence shall be referred to the appropriate adult court to be treated in accordance with the
9 regular procedure of the court, unless the person is under the age of eighteen (18) years at the
10 time of the violation, in which case, jurisdiction over the sentence shall continue in the family
11 court.

12 (d) In the event that the court, after a hearing on modification of the order of certification
13 pursuant to § 14-1-42, has determined that it has not been demonstrated by clear and convincing
14 evidence that the person has been sufficiently rehabilitated and could be released in the
15 community without posing a danger to the public should the order of certification be modified,
16 the court shall deny the modification of the order of certification and direct the person to serve the
17 balance of his or her sentence under the jurisdiction of the department of corrections in a facility
18 under the control of the department. The sentence, including any term served in the training
19 school for youth, shall be subject to the regulations and statutes governing the parole board.

20 (e) Any person who commits an offense which would be punishable as a felony if
21 committed by an adult, after having been certified and adjudicated by the family court pursuant to
22 § 14-1-7.2, may, after a hearing by a justice of the family court to determine that probable cause
23 exists to believe that the child has committed the offense, have the jurisdiction over his or her
24 sentence transferred to the department of corrections to be served in facilities under the control of
25 the department.

26 (f) A finding that the child is subject to certification shall constitute presumptive
27 evidence of the non-amenability of the person to further treatment in facilities available to the
28 family court and the court shall transfer the jurisdiction over his or her sentence to the department
29 of corrections to be served in facilities under the control of the department, unless the
30 presumption is rebutted by clear and convincing evidence which demonstrates that the person is
31 amenable to treatment in family court facilities.

32 (g) A finding that the child is subject to certification shall also constitute presumptive
33 evidence of the non-amenability of the person to further treatment in facilities available to the
34 family court and the court shall waive jurisdiction over that offense and all subsequent offenses

1 and the child shall be prosecuted for the offense by the court which would have jurisdiction if
2 committed by an adult, unless the presumption is rebutted by clear and convincing evidence
3 which demonstrates that the person is amenable to treatment in family court facilities.

4 (2) A waiver of jurisdiction over a child pursuant to subdivision (1) of this subsection
5 shall constitute a waiver of jurisdiction over that child for that offense and for all subsequent
6 offenses of whatever nature, and the child shall be referred to the court which would have had
7 jurisdiction if the offense had been committed by an adult.

8 (h) The name of any person waived or certified and convicted shall be available to the
9 general public.

10 **14-1-34. Placement of dependent and neglected children – Criminal records of**
11 **foster parents made available.** -- (a) If, after a hearing on any petition, a child shall be found to
12 be dependent or neglected within the meaning of this chapter, the court shall by decree assign the
13 custody of the child to the director of children, youth and families, for any period that shall seem
14 fit to the court; and the director of children, youth, and families shall become entitled to the
15 custody of the child to the exclusion of any other person. The court may at any time, for good
16 cause shown, modify or revoke the decree.

17 ~~(b) For any individual eighteen (18) years of age or older, the family court may order that~~
18 ~~the case management services be provided by the licensed agency, society, or institution in which~~
19 ~~the individual is placed; provided, that the department monitors the individual's case on a~~
20 ~~quarterly basis.~~

21 ~~(c)~~ (b) The department for children, youth and families shall apply to the bureau of
22 criminal identification of the state police or the local police department for a nationwide criminal
23 records check of prospective foster parents. The check will conform to the applicable federal
24 standards including the taking of fingerprints to identify the applicant. The department of
25 children, youth, and families shall request the attorney general, through the division of criminal
26 identification, to make available any criminal record of present and prospective foster parents.
27 The attorney general shall immediately comply with that request, and the department of children,
28 youth, and families, shall examine these records in determining the suitability of these persons to
29 be foster parents. The criminal record check shall be conducted without charge to the foster
30 parents. At the conclusion of the background check required in this section, the state police,
31 attorney general or the local police department shall promptly destroy the fingerprint record of the
32 applicant obtained pursuant to this chapter.

33 **14-1-36. Commitment of delinquent and wayward children.** – (a) In all proceedings
34 under this chapter, ~~when~~ the court ~~may~~ orders a delinquent or wayward child to be committed to

1 ~~an institution, the institution shall be~~ the training school for youth for a sentence no longer than
2 the youth's nineteenth birthday. However, nothing contained in this section shall be construed to
3 prohibit the placing of any child in the custody of the department of children, youth and families
4 or any other agency, society, or institution, pursuant to § 14-1-32. The commitment of delinquent
5 or wayward children shall be by an order and all assignments of the custody of dependent,
6 neglected, delinquent, or wayward children to the state training school for youth or to the custody
7 of the department of children, youth and families or to any of the private institutions, agencies, or
8 societies mentioned in this chapter shall be by a decree signed by the justice of the court by whom
9 the order or decree is issued, and that order or decree shall be directed to any person that the court
10 may designate, and shall require that person to take the child and deliver him or her to the officer
11 in charge of the training school for youth or to the custody of the director of children, youth and
12 families or of the public or private institution, agency, or society, and the order or decree shall
13 constitute the person charged with it, while he or she has the order in his or her possession for
14 service, an officer for all purposes under this chapter, in any county of the state in which it may
15 be necessary for him or her to go. The person charged with carrying out the order or decree shall
16 also deliver to the officer of the public or private institution, agency, or society or to the training
17 school for youth or the director of children, youth and families a copy of the order or the decree
18 signed by the justice of the court issuing it, and subject to the provisions of this chapter, the
19 officer and other authorities in charge of the training school for youth or the director of children,
20 youth and families or any public or private institution, agency, or society shall hold the child
21 according to the terms of any other order or decree that may from time to time thereafter be
22 issued by the court in relation to the child.

23 (b) Whenever the court shall commit a child to the training school for youth or to the
24 director of children, youth and families or any other institution or agency, it shall transmit with
25 the order of commitment a summary of its information concerning the child.

26 SECTION 2. Section 42-72-3 of Chapter 42-72 entitled "Department of Children, Youth
27 and Families" is hereby amended as follows:

28 **42-72-3. Definitions.** – For the purposes of this chapter:

29 (1) "Advocate" means the child advocate or any of his or her agents, servants or
30 employees as established pursuant to this title.

31 (2) "Child" or "children" means any person under the age of eighteen (18); provided that
32 children over the age of eighteen (18) and who continue to receive services from the department
33 ~~who are nevertheless subject to the continuing jurisdiction of the family court pursuant to chapter~~
34 ~~1 of title 14 and/or~~ who are defined as emotionally disturbed and/or as children with functional

developmental disabilities as referenced in this section ~~according to chapter 7 of title 40.1~~ shall be considered "children" for all the purposes of this chapter.

(3) "Child abuse and neglect" is that term as defined in chapter 11 of title 40.

(4) "Department" means the department of children, youth, and families.

(5) "Director" means the director of children, youth, and families, or his or her designee.

(6) "Regional service center" means the respective local or regional units established by the director.

(7) "Near fatality" means an act that, as certified by a physician, placed the child in serious or critical condition.

(8) "Infant" means any person under the age of twenty-four (24) months.

SECTION 3: Section 42-72-5 of Chapter 42-72 entitled "Department of Children, Youth and Families" is hereby amended as follows:

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

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

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

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

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

(4) To establish, monitor, and evaluate protective services for children including, but not

1 limited to, purchase of services from private agencies and establishment of a policy and
2 procedure manual to standardize protective services;

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

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

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

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

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

12 (10) To establish a minimum mandatory level of twenty (20) hours of training per year
13 and provide ongoing staff development for all staff; provided, however, all social workers hired
14 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social
15 work or a closely related field, and must be appointed from a valid civil service list;

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

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

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

22 (14) To initiate and carry out studies and analysis which will aid in solving local,
23 regional and statewide problems concerning children;

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

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

29 (17) To review and coordinate those activities of agencies of the state and of any
30 political subdivision of the state which affect the full and fair utilization of community resources
31 for programs for children, and initiate programs that will help assure utilization;

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

1 (19) To adopt rules and regulations which:

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

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

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

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

13 (22) To be responsible for the education of all children who are placed, assigned, or
14 otherwise accommodated for residence by the department in a state operated or supported
15 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility the
16 department is authorized to enroll and pay for the education of students in the public schools or,
17 when necessary and appropriate, to itself provide education in accordance with the regulations of
18 the board of regents for elementary and secondary education either directly or through contract;

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

22 (24) To be responsible for the delivery of appropriate mental health services to
23 seriously emotionally disturbed children [and children with functional developmental disabilities](#).
24 Appropriate mental health services may include hospitalization, placement in a residential
25 treatment facility, or treatment in a community based setting. The department is charged with the
26 responsibility for developing the public policy and programs related to the needs of seriously
27 emotionally disturbed children [and children with functional developmental disabilities](#).

28 In fulfilling its responsibilities the department shall:

29 (i) Plan a diversified and comprehensive network of programs and services to meet the
30 needs of seriously emotionally disturbed children [and children with functional developmental](#)
31 [disabilities](#);

32 (ii) Provide the overall management and supervision of the state program for seriously
33 emotionally disturbed children [and children with functional developmental disabilities](#);

34 (iii) Promote the development of programs for preventing and controlling emotional or

behavioral disorders in children;

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

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

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

Each community, as defined in chapter 7 of title 16, shall contribute to the department, at least in accordance with rules and regulations to be adopted by the department, at least its average per pupil cost for special education for the year in which placement commences, as its share of the cost of educational services furnished to a seriously emotionally disturbed child pursuant to this section in a residential treatment program which includes the delivery of educational services.

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

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

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

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

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

(c)Is likely to continue indefinitely;

(d) Results in age- appropriate substantial functional limitations in three (3) or more of

the following areas of major life activity.

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for Independent Living; and

(vii) Economic self-sufficiency; and

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

(25) To provide access to services to any person under the age of eighteen (18) years or any person under the age of twenty-one (21) years who began to receive child welfare services from the department prior to attaining eighteen (18) years of age, has continuously received those services thereafter and elects to continue to receive such services after attaining the age of eighteen (18) years.

~~(25)~~(26) To develop and maintain, in collaboration with other state and private agencies, a comprehensive continuum of care in this state for children in the care and custody of the department or at risk of being in state care. This continuum of care should be family-centered and community-based with the focus of maintaining children safely within their families or, when a child cannot live at home, within as close proximity to home as possible based on the needs of the child and resource availability. The continuum should include community-based prevention, family support and crisis intervention services as well as a full array of foster care and residential services, including residential services designed to meet the needs of children who are seriously emotionally disturbed, children who have a functional developmental disability and youth who have juvenile justice issues. The director shall make reasonable efforts to provide a comprehensive continuum of care for children in the care and custody of the DCYF, taking into account the availability of public and private resources and financial appropriations and the director shall submit an annual report to the general assembly as to the status of his or her efforts in accordance with the provisions of subsection 42-72-4(b)(13).

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

(d) Funding for these clients shall include funds that are transferred to the Department of Human Services as part of the Managed Health Care program transfer. However, the expenditures

1 relating to these clients shall not be part of the Department of Human Services' Caseload
2 estimated for the semi-annual Caseload Estimating Conference. The expenditures shall be
3 accounted for separately.

4 (e) The assembly has included funding in the FY 2008 Department of Children, Youth
5 and Families budget in the amount of \$10.5 million from all sources of funds and \$6.0 million
6 from general revenues to provide a managed system to care for children serviced between 18 to
7 21 years of age. The department shall manage this caseload to this level of funding.

8 (27) To administer funds under the John H. Chafee Foster Care Independence and
9 Educational And Training Voucher (ETV) Programs of Title IV-E of the Social Security Act, and
10 the DCYF Higher Education Opportunity Grant Program as outlined in RIGL §42-72.8, in
11 accordance with rules and regulations as promulgated by the director of the department.

12 SECTION 4. Section 42-72.8 of the General Laws in Title 42 entitled State Affairs and
13 Government is hereby amended to read as follows:

14 **42-72.8-2. Administration of program.** – (a) Each year the department shall identify
15 and recommend from among youth children in its legal custody, or who were in the Department's
16 legal custody on their eighteenth (18th) birthday, those students who may be eligible to apply for a
17 Higher Education Opportunity Incentive Grant. The department of elementary and secondary
18 education shall afford all appropriate assistance to the department in the identification of youth
19 children who may be eligible for such grants. Each selected applicant will receive grants to
20 supplement federal, state and institutional scholarships and grants awarded to the applicant in an
21 amount not to exceed the full cost of tuition, fees and room and board charges:

22 (b) A grant period shall be limited to two (2) years of full-time study at the Community
23 College of Rhode Island, four (4) years of full-time study at Rhode Island College, and the
24 University of Rhode Island, and in no instance shall the grant period exceed a period of four (4)
25 years. Grant recipients shall be enrolled full-time and shall continue to make satisfactory progress
26 toward an academic certificate or degree;

27 (c) The department shall make recommendations for grant awards from among those
28 youth children who:

29 (1) Have not yet reached the age of eighteen (18) on the day of recommendation, are in
30 the legal custody of the department on the day of recommendation and have remained in such
31 custody for at least twenty-four (24) months prior to the day of recommendation; or, for former
32 foster care, have reached the age of eighteen (18) prior to the date of recommendation, have not
33 yet reached the age of twenty-one (21) and were in the custody of the department from their
34 sixteenth (16th) to their eighteenth (18th) birthdays; and

- 1 (2) Have graduated from high school or received the equivalent of a high school
2 diploma not more than one year prior to the date of recommendation; and
- 3 (3) Has not reached his/her twenty-first (21st) birthday. ~~Grant recipients shall continue~~
4 ~~to be eligible for services from the department including, but not limited to, foster care during~~
5 ~~college breaks or for commuting students.~~

6 SECTION 5. This article shall take effect upon passage.

7