



OFFICE OF MANAGEMENT & BUDGET

Jonathan Womer, Director

One Capitol Hill

Office: (401) 574-8430

Providence, RI 02908-5890

Fax: (401) 222-6436

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee
The Honorable Ryan W. Pearson
Chairman, Senate Finance Committee

From: Jonathan Womer
Director, Office of Management & Budget

Date: May 21, 2021

Subject: **Amendments FY 2022 Appropriations Act (21-H-6122)**

A handwritten signature in blue ink, appearing to read "Jonathan Womer".

The Governor requests that several amendments be made in the FY 2022 Appropriations Act.

The first amendment seeks to make a technical change to a line item in Article 1 Relating to Making Appropriations in Support of FY 2022 for the name of a designated grant under the Executive Office of Commerce.

The next amendment is to Article 6 Relating to Fees to remove a previous strikethrough. This would no longer remove the requirement that the Superior Court hear appeals of the assessment of a CRMC fine *de novo*.

The next amendment adds language to Article 12 Relating to Medical Assistance Section 8 Rhode Island Medicaid Reform Act of 2008 Resolution in order to submit Medicaid State Plan amendments in order to specify which data release to use for annual increases for home care and hospice rates and to change the data release from May to February. Doing so will provide greater transparency and ensure that the rates adopted by the conferees at the May Caseload Estimating Conference are implemented when EOHHS makes the annual rate changes, absent any other legislative directive. However, because this change requires a State Plan Amendment, EOHHS requires the legislative authority first. The amendments will align the May Caseload Estimating Conference adopted estimate with the annual home care and hospice rate increases pursuant to current law and absent additional legislative directive.

The Governor also proposes that two amendments be made to Article 13 Relating to Human Services. The first proposed amendment to Article 13 would streamline the proposed statutory language to better reflect the amendment's goal of limiting the use of probation revocation as a response to technical violations, as well as to update the statutory guidelines as to the circumstances under which an individual incarcerated for a violation of probation can be held without bail to preserve discretion for the Judiciary.

The second amendment to Article 13 is to comply with the provisions under the federal Consolidated Appropriations Act (CAA), which allows young adults aging out of the Department of Children, Youth, and Families (DCYF) to utilize critical funding and supports that are available to them through the CAA. The Amendment adds language that would allow, with the agreement and consent of the person, that the court may reopen, extend or retain its jurisdiction beyond a person's twenty first (21st) birthday until the person's twenty second birthday or until September 30, 2021, if that date occurs sooner, under certain circumstances. The law would allow for these persons aging out of DCYF care to take advantage of critical funding and supports that are available to them for a limited time as part of the pandemic recovery (Consolidated Appropriations Act).

Page 2
May 21, 2021

The final amendment is to correct for a technical error pertaining to the amount referenced for the maximum DSH amount in Federal Fiscal Year 2021 (SFY 2022) in Article 14 Relating to Uncompensated Care.

Please feel free to contact me with any questions about these requested changes.

JW:21-Amend-9

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
James E. Thorsen , Director of Administration
Joseph Codega Jr., Deputy Budget Officer

2021 – H 6122 Relating to Making Appropriations in Support of FY 2022

1. Article 1 – Relating to Making Appropriations in Support of FY 2022

SECTION 1. Page 8, line 2 strike Minority Entrepreneurship and replace with Urban Ventures

2. Article 6 – Relating to Fees

SECTION 8. Page 90, line 22, do not strike “which shall hear the assessment of the fine de novo.”

3. Article 12 -Relating to Medical Assistance

SECTION 8. Page 244, after line 7 insert the following: “(o) Hospice and home care annual rate increase language. The Executive Office proposes amending the language in the Medicaid State Plan detailing the annual inflationary adjustments to hospice rates to utilize the New England Consumer Price Index card as determined by the United State Department of Labor for medical care data that is released in March, containing the February data. Additionally, the Executive Office proposes to add language to the Medicaid State Plan regarding the annual inflationary adjustments to home care rates to clarify that the Executive Office will utilize the New England Consumer Price Index card as determined by the United States Department of Labor for medical care data that is released in March, containing the February data.”

Page 244, line 16, strike “(o)” and replace with subsequent letter, “(p)”

4. Article 13 – Relating to Human Services

SECTION 1. Page 245, line 11, insert the following after “court.”: “The department of corrections division of rehabilitative services shall determine when a technical violation of the terms and conditions of probation as fixed by the court that does not constitute a new criminal offense has occurred and shall cause the defendant to appear before the court.”

Page 245, line 11, strike the second “the” and replace with “For technical violations, the”.

Page 245, line 12, insert the following after “defendant.”: “including, as applicable, a description of the clear and articulable public safety risk posed by a defendant accused of a technical violation”.

Page 245, line 12, insert the following after “and”: “, as available,”

Page 245, lines 13-14, do not strike “The division of rehabilitative services may recommend that the time served up to that point is a sufficient response to a violation that is not a new, alleged crime.”

Page 245, line 18, insert the following after “influence”: “or if the Court determines in its discretion that public safety concerns and/or concerns regarding the defendant’s likelihood to appear before the court warrant holding the defendant without bail”.

Pages 245, lines 19-32 and page 246, lines 1-2, strike subsection (b) in its entirety “(b) Whenever any person who has been placed on probation by virtue of the suspension of execution of his or her sentence pursuant to § 12-19-13 allegedly commits a technical violation of the terms and conditions of his or her probation as fixed by the court that does not constitute a new criminal offense, including but not limited to failure to report to the probation officer, failure to remain within the state of Rhode Island, failure to notify the probation officer of change of address, telephone number, or employment, failure to be steadily employed or attend school or vocational training, or failure to pay restitution, court costs, and fines, the department of corrections division of rehabilitative services may, at its discretion and depending upon the circumstances of the individual case, cause the defendant to appear before the court. This section shall be liberally construed to limit the use of incarceration for technical violations of probation to defendants who pose a clear and articulable”

~~public safety risk. If the defendant is caused to appear before the court, the division of rehabilitative services shall promptly render a written report relative to the conduct of the defendant, and the information contained in any report under § 12-13-24.1, in which the division shall make a finding on the record as to the clear public safety risk posed by the defendant that warrants the defendant to appear before the court. The division of rehabilitative services may recommend that the time served be a sufficient response to a violation that is not a new, alleged crime.”~~

Page 246, line 3, reletter section to section (b), as in current statute.

New SECTION 8. Attachment 1 is a new section for Article 13, “Retention of jurisdiction”, to comply with the provisions under the federal Consolidated Appropriations Act (CAA). Add new Section 8 on Page 282, after Line 8, and renumber subsequent sections.

5. Article 14 – Relating to Uncompensated Care

Section 1. Page 286, Line 8 strike \$142.3 and replaced with \$142.5

GBA-9: Attachment 1:
New Section 8 – Article 13 Relating to Human Services

SECTION 8. Section 14-1-6 of Chapter 14 of the General Laws entitled “Retention of jurisdiction” is 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 having attained the age of eighteen (18) years by the filing of a petition alleging that the child is wayward or delinquent 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 nineteen (19) years of age, unless discharged prior to turning nineteen (19).

(b) When the court shall have obtained jurisdiction over any child prior to the child's eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused pursuant to §§ 14-1-5 and 40-11-7 or 42-72-14, 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 at least six (6) months prior to a child turning eighteen (18) years of age, the court shall require the department of children, youth and families to provide a description of the transition services including the child's housing, health insurance, education and/or employment plan, available mentors and continuing support services, including workforce supports and employment services afforded the child in placement, or a detailed explanation as to the reason those services were not offered. As part of the transition planning, the child shall be informed by the department of the opportunity to voluntarily agree to extended care and placement by the department and legal supervision by the court until age twenty-one (21). The details of a child's transition plan shall be developed in consultation with the child, wherever possible, and approved by the court prior to the dismissal of an abuse, neglect, dependency, or miscellaneous petition before the child's twenty-first birthday.

(c) A child, who is in foster care on their eighteenth birthday due to the filing of a miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused pursuant to §§ 14-1-5, 40-11-7 or 42-72-14, may voluntarily elect to continue responsibility for care and placement from DCYF and to remain under the legal supervision of the court as a young adult until age twenty-one (21), provided:

(1) The young adult was in the legal custody of the department at age eighteen (18); and

(2) The young adult is participating in at least one of the following:

(i) Completing the requirements to receive a high school diploma or GED;

(ii) Completing a secondary education or a program leading to an equivalent credential; enrolled in an institution that provides postsecondary or vocational education;

(iii) Participating in a job-training program or an activity designed to promote or remove barriers to employment;

(iv) Be employed for at least eighty (80) hours per month; or

(v) Incapable of doing any of the foregoing due to a medical condition that is regularly updated and documented in the case plan.

(d) A former foster child who was adopted or placed in guardianship with an adoption assistance agreement or a guardianship assistance agreement that was executed on or after his or her sixteenth birthday and prior to his or her eighteenth birthday may voluntarily agree to extended care and placement by the department and legal supervision by the court until age twenty-one (21) if the young adult satisfies the requirements in subsection (c)(2). Provided, however, the department retains the right to review the request and first attempt to address the issues through the adoption assistance agreement by providing post adoptive or post guardianship support services to the young adult and his or her adoptive or guardianship family.

(e) Upon the request of the young adult, who voluntarily agreed to the extension of care and placement by the department and legal supervision by the court, pursuant to subsections (c) and (d) of this section, the court's legal supervision and the department's responsibility for care and placement may be

terminated. Provided, however, the young adult may request reinstatement of responsibility and resumption of the court's legal supervision at any time prior to his or her twenty-first birthday if the young adult meets the requirements set forth in subsection (c)(2). If the department wishes to terminate the court's legal supervision and its responsibility for care and placement, it may file a motion for good cause. The court may exercise its discretion to terminate legal supervision over the young adult at any time.

(f) With the consent of the person previously under the court's supervision, the court may reopen, extend or retain its jurisdiction beyond that person's twenty first (21st) birthday until his or her twenty second birthday or until September 30, 2021, whichever date occurs first, under the following circumstances:

(1) The person aged out of DCYF care or left foster care during the COVID-19 public health emergency, defined as beginning on January 27, 2020, and is entitled to extended benefits pursuant to the terms of the Consolidated Appropriations Act of 2021, P.L. 116-260, and;

(i) the Court has or had obtained jurisdiction over the person prior to his or her eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent, abused or neglected pursuant to 14-1-5, 40-11-7 or 42-72-14 or after the person's 18th birthday pursuant to a Voluntary Extension of Care petition and;

(ii) Court supervision is necessary for the Department of Children, Youth and Families to access IVE funding to support such benefits, in whole or in part and;

(iii) Court supervision is required to continue transition planning and to ensure the safety, permanency, and well-being of older youth who remain in or who age out of foster care and re-enter foster care.

(f g) The court may retain jurisdiction of any child who is seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v) until that child turns age twenty-one (21) when the court shall have obtained jurisdiction over any child prior to the child's eighteenth birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent, neglected, and/or abused pursuant to §§ 14-1-5, and 40-11-7, or 42-72-14.

(g h) The department of children, youth and families shall work collaboratively with the department of behavioral healthcare, developmental disabilities and hospitals, and other agencies, in accordance with § 14-1-59, to provide the family court with a transition plan for those individuals who come under the court's jurisdiction pursuant to a petition alleging that the child is dependent, neglected, and/or abused and who are seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v). This plan shall be a joint plan presented to the court by the department of children, youth and families and the department of behavioral healthcare, developmental disabilities and hospitals. The plan shall include the behavioral healthcare, developmental disabilities and hospitals' community or residential service level, health insurance option, education plan, available mentors, continuing support services, workforce supports and employment services, and the plan shall be provided to the court at least twelve (12) months prior to discharge. At least three (3) months prior to discharge, the plan shall identify the specific placement for the child, if a residential placement is needed. The court shall monitor the transition plan. In the instance where the department of behavioral healthcare, developmental disabilities and hospitals has not made timely referrals to appropriate placements and services, the department of children, youth and families may initiate referrals.

(h i) The parent and/or guardian and/or guardian ad litem of a child who is seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is before the court pursuant to §§ 14-1-5(1)(iii) through 14-1-5(1)(v), 40-11-7 or 42-72-14, shall be entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no appropriate transition plan has been submitted to the court by the department of children, youth and families and the department of behavioral healthcare, developmental disabilities and hospitals. The family court shall require that the department of behavioral healthcare, developmental disabilities and hospitals shall immediately identify a liaison to work with the department of children, youth and families until the child reaches the age of twenty-one (21) and an immediate transition plan be submitted if the following facts are found:

(1) No suitable transition plan has been presented to the court addressing the levels of service appropriate to meet the needs of the child as identified by the department of behavioral healthcare, developmental disabilities and hospitals; or

(2) No suitable housing options, health insurance, educational plan, available mentors, continuing support services, workforce supports, and employment services have been identified for the child.

(~~f~~ j) In any case where the court shall not have acquired jurisdiction over any person prior to the person's eighteenth (18th) 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 that would be punishable as a felony if committed by an adult has been filed before that person attains the age of nineteen (19) 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 nineteen (19) years of age, unless discharged prior to turning nineteen (19).

(~~j~~ k) In any case where the court shall not have acquired jurisdiction over any person prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that the person had committed an offense prior to the person attaining the age of eighteen (18) years that would be punishable as a felony if committed by an adult, that person shall be referred to the court that 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 eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum penalty provided for the conviction of that offense.

(~~k~~ l) 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) years. However, in no case shall the sentence be in excess of the maximum penalty provided by statute for the conviction of the offense.

(~~l~~ m) 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 eighteen (18) years.