



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: March 12, 2018

Subject: Amendments to Article 15 of the FY 2019 Appropriations Act
(18-H-7200)

The Governor requests that Article 15 entitled "Relating to Children and Families" submitted on January 18, 2018 be amended as reflected in the attached version.

Section 6 on administrative penalties for child care licensing violations is updated to clarify the circumstances under which the Department of Children, Youth and Families can issue a penalty. This clarification was requested by the provider community. This amendment also corrects the amount of the maximum penalty to be \$500 in both places the penalty is listed in the article. The article as submitted had \$500 in one place and \$1,000 in another.

Section 9 on Child Care state subsidies is amended to clarify that any new rates established after June 30, 2018 will be established by the Department of Human Services and will take into consideration recent market rate surveys in setting such rates. Clarification is also provided that the minimum rates only apply to full-time care.

A new Section 10 is added to authorize the Departments of Labor and Training and Children, Youth and Families, to work collaboratively with the Governor's Workforce Board to provide vocational assessments and job training services to young adults (18 – 21) who were in the legal custody of the Department of Children, Youth and Families on their 18th birthday.

If you have any questions regarding these amendments, please feel free to call me at 222-6300.

TAM:sma 19-Amend-9

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor

TDD#: 277-1227

Article 15 Amendment

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1 or children.

2 (3) "Child" means a person under eighteen (18) years of age.

3 (4) "The court" means the family court of the state of Rhode Island.

4 (5) "Delinquent", when applied to a child, means and includes any child who has committed
5 any offense that, if committed by an adult, would constitute a felony, or who has on more than one
6 occasion violated any of the other laws of the state or of the United States or any of the ordinances
7 of cities and towns, other than ordinances relating to the operation of motor vehicles.

8 (6) "Dependent" means any child who requires the protection and assistance of the court
9 when his or her physical or mental health or welfare is harmed, or threatened with harm, due to the
10 inability of the parent or guardian, through no fault of the parent or guardian, to provide the child
11 with a minimum degree of care or proper supervision because of:

12 (i) The death or illness of a parent; or

13 (ii) The special medical, educational, or social-service needs of the child which the parent
14 is unable to provide.

15 (7) "Justice" means a justice of the family court.

16 (8) "Neglect" means a child who requires the protection and assistance of the court when
17 his or her physical or mental health or welfare is harmed, or threatened with harm, when the parents
18 or guardian:

19 (i) Fails to supply the child with adequate food, clothing, shelter, or medical care, though
20 financially able to do so or offered financial or other reasonable means to do so;

21 (ii) Fails to provide the child proper education as required by law; or

22 (iii) Abandons and/or deserts the child.

23 (9) "Wayward", when applied to a child, means and includes any child:

24 (i) Who has deserted his or her home without good or sufficient cause;

25 (ii) Who habitually associates with dissolute, vicious, or immoral persons;

26 (iii) Who is leading an immoral or vicious life;

1 (iv) Who is habitually disobedient to the reasonable and lawful commands of his or her
2 parent or parents, guardian, or other lawful custodian;

3 (v) Who, being required by chapter 19 of title 16 to attend school, willfully and habitually
4 absents himself or herself from school or habitually violates the rules and regulations of the school
5 when he or she attends;

6 (vi) Who has, on any occasion, violated any of the laws of the state or of the United States
7 or any of the ordinances of cities and towns, other than ordinances relating to the operation of motor
8 vehicles; or

9 (vii) Any child under seventeen (17) years of age who is in possession of one ounce (1 oz.)
10 or less of marijuana, as defined in § 21-28-1.02, and who is not exempted from the penalties
11 pursuant to chapter 28.6 of title 21.

12 (10) "Young adult" means an individual who has attained the age of eighteen (18) years but
13 has not reached the age of twenty-one (21) years and was in the legal custody of the department on
14 their eighteenth birthday pursuant to an abuse, neglect or dependency petition; or was a former
15 foster child who was adopted or placed in a guardianship after attaining age sixteen (16).

16 (11) "Voluntary placement agreement for extension of care" means a written agreement
17 between the state agency and a young adult who meets the eligibility conditions specified in §14-
18 1-6(c), acting as their own legal guardian that is binding on the parties to the agreement. At a
19 minimum, the agreement recognizes the voluntary nature of the agreement, the legal status of the
20 young adult and the rights and obligations of the young adult, as well as the services and supports
21 the agency agrees to provide during the time that the young adult consents to giving the department
22 legal responsibility for care and placement.

23 (12) "Supervised independent living setting" means a supervised setting in which a young
24 adult is living independently, that meets any safety and or licensing requirements established by
25 the department for this population, and is paired with a supervising agency or a supervising worker,
26 including, but not limited to, single or shared apartments or houses, host homes, relatives' and

1 mentors' homes, college dormitories or other post-secondary educational or vocational housing. All
2 or part of the financial assistance that secures an independent supervised setting for a young adult
3 may be paid directly to the young adult if there is no provider or other child placing intermediary,
4 or to a landlord, a college, or to a supervising agency, or to other third parties on behalf of the
5 young adult in the discretion of the department.

6 (10) (13) The singular shall be construed to include the plural, the plural the singular, and
7 the masculine the feminine, when consistent with the intent of this chapter.

8 (11) (14) For the purposes of this chapter, "electronic surveillance and monitoring devices"
9 means any "radio frequency identification device (RFID)" or "global positioning device" that is
10 either tethered to a person or is intended to be kept with a person and is used for the purposes of
11 tracking the whereabouts of that person within the community.

12 **14-1-6. Retention of jurisdiction.**

13 (a) When the court shall have obtained jurisdiction over any child prior to the child having
14 attained the age of eighteen (18) years by the filing of a petition alleging that the child is wayward
15 or delinquent pursuant to § 14-1-5, the child shall, except as specifically provided in this chapter,
16 continue under the jurisdiction of the court until he or she becomes nineteen (19) years of age,
17 unless discharged prior to turning nineteen (19).

18 (b) When the court shall have obtained jurisdiction over any child prior to the child's
19 eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the
20 child is dependent, neglected, ~~and~~ or abused pursuant to §§ 14-1-5 and 40-11-7 or 42-72-14,
21 ~~including any child under the jurisdiction of the family court on petitions filed and/or pending~~
22 ~~before the court prior to July 1, 2007,~~ the child shall, except as specifically provided in this chapter,
23 continue under the jurisdiction of the court until he or she becomes eighteen (18) years of age;
24 provided, that at least six (6) months prior to a child turning eighteen (18) years of age, the court
25 shall require the department of children, youth and families to provide a description of the transition
26 services including the child's housing, health insurance, education and/or employment plan,

1 available mentors and continuing support services, including workforce supports and employment
2 services afforded the child in placement or a detailed explanation as to the reason those services
3 were not offered. As part of the transition planning, the child shall be informed by the department
4 of the opportunity to voluntarily agree to extended care and placement by the department and legal
5 supervision by the court until age twenty-one (21). The details of a child's transition plan shall be
6 developed in consultation with the child, wherever possible, and approved by the court prior to the
7 dismissal of an abuse, neglect, dependency, or miscellaneous petition before the child's twenty-first
8 birthday.

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

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

15 (2) Was a former foster child who was adopted or placed in a guardianship with an adoption
16 assistance agreement that was effective upon attaining age sixteen (16); and

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

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

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

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

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

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

26 (4) Upon the request of the young adult, the court's legal supervision and the department's

1 responsibility for care and placement may be terminated. Provided, however, the young adult may
2 request reinstatement of responsibility and resumption of the court's legal supervision at any time
3 prior to their twenty-first birthday if the young adult meets the requirements set forth in §14-1-
4 6(c)(3). If the department wishes to terminate the court's legal supervision and its responsibility for
5 care and placement, it may file a motion for good cause. The court may exercise its discretion to
6 terminate legal supervision over the young adult at any time.

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

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

1 children, youth and families may initiate referrals.

2 ~~(d)~~ (f) The parent and/or guardian and/or guardian ad litem of a child who is seriously
3 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is
4 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
5 entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no
6 appropriate transition plan has been submitted to the court by the department of children, person
7 and families and the department of behavioral healthcare, developmental disabilities and hospitals.
8 The family court shall require that the department of behavioral healthcare, developmental
9 disabilities, and hospitals shall immediately identify a liaison to work with the department of
10 children, youth, and families until the child reaches the age of twenty-one (21) and an immediate
11 transition plan be submitted if the following facts are found:

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

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

18 ~~(e) Provided, further, that any youth who comes within the jurisdiction of the court by the~~
19 ~~filing of a wayward or delinquent petition based upon an offense that was committed prior to July~~
20 ~~1, 2007, including youth who are adjudicated and committed to the Rhode Island training school~~
21 ~~and who are placed in a temporary community placement as authorized by the family court, may~~
22 ~~continue under the jurisdiction of the court until he or she turns twenty one (21) years of age.~~

23 ~~(f)~~ (g) In any case where the court shall not have acquired jurisdiction over any person
24 prior to the person's eighteenth (18th) birthday by the filing of a petition alleging that the person
25 had committed an offense, but a petition alleging that the person had committed an offense that
26 would be punishable as a felony if committed by an adult has been filed before that person attains

1 the age of nineteen (19) years of age, that person shall, except as specifically provided in this
2 chapter, be subject to the jurisdiction of the court until he or she becomes nineteen (19) years of
3 age, unless discharged prior to turning nineteen (19).

4 ~~(g)~~ (h) In any case where the court shall not have acquired jurisdiction over any person
5 prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that
6 the person had committed an offense prior to the person attaining the age of eighteen (18) years
7 which would be punishable as a felony if committed by an adult, that person shall be referred to
8 the court that had jurisdiction over the offense if it had been committed by an adult. The court shall
9 have jurisdiction to try that person for the offense committed prior to the person attaining the age
10 of eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum
11 penalty provided for the conviction of that offense.

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

17 ~~(i)~~ (j) Nothing in this section shall be construed to affect the jurisdiction of other courts
18 over offenses committed by any person after he or she reaches the age of eighteen (18) years.

19 **14-1-11.1. Commitment of voluntary placements.**

20 (a) The department of children, youth, and families shall petition the family court and
21 request the care, custody, and control of any child who is voluntarily placed with the department
22 for the purpose of foster care by a parent or other person previously having custody and who
23 remains in foster care for a period of twelve (12) months. However, there shall be no requirement
24 for the department to seek custody of any child with an emotional, behavioral or mental disorder
25 or developmental or physical disability if the child is voluntarily placed with the department by a
26 parent or guardian of the child for the purpose of accessing an out-of-home program for the child

1 in a program which provides services for children with disabilities, including, but not limited to,
2 residential treatment programs, residential counseling centers, and therapeutic foster care
3 programs.

4 (b) In a hearing on a petition alleging that a child is dependent, competent and creditable
5 evidence that the child has remained in foster care for a period of twelve (12) months shall
6 constitute prima facie evidence sufficient to support the finding by the court that the child is
7 "dependent" in accordance with § 14-1-3.

8 (c) In those cases where a young adult who meets the eligibility criteria in §14-1-6(c)
9 wishes to continue in foster care after age eighteen (18), the young adult and an authorized
10 representative of DCYF shall, before the youth reaches age eighteen (18), discuss the terms of a
11 voluntary placement agreement for extension of care to be executed upon or after the young adult's
12 eighteenth birthday.

13 (d) In those cases where a young adult who meets the eligibility criteria in §14-1-6(c) exits
14 foster care at or after age eighteen (18), but wishes to return to foster care before age twenty-one
15 (21), DCYF shall file a petition for legal supervision of the young adult, with a voluntary placement
16 agreement for extension of care, executed by the young adult and an authorized representative of
17 DCYF attached.

18 SECTION 2. Section 40-11-14 of the General Laws in Chapter 40-11 entitled "Abused and
19 Neglected Children" is hereby amended to read as follows:

20 **40-11-14. Right to representation in court proceedings.**

21 (a) Any child who is alleged to be abused or neglected as a subject of a petition filed in
22 family court under this chapter, shall have a guardian ad litem appointed by the court to represent
23 this child. In addition, any young adult, who is eligible for extended foster care pursuant to §14-1-
24 6(c) and who has executed a voluntary agreement for extension of care may request the appointment
25 of guardian ad litem or court-appointed counsel. An appointment shall be in the discretion of the
26 court. The cost of counsel in those instances shall be paid by the state.

1 (b) A volunteer court-appointed special advocate may be assigned to assist the guardian ad
2 litem, in the court-appointed special advocate's office (CASA):

3 (1) In order to assist the family court with the ability to ensure that these volunteers, whose
4 activity involves routine contact with minors, are of good moral character, all persons seeking to
5 volunteer for CASA shall be required to undergo a national criminal records check for the purpose
6 of determining whether the prospective volunteer has been convicted of any crime.

7 (i) A national criminal records check shall include fingerprints submitted to the Federal
8 Bureau of Investigation (FBI) by the department of children, youth and families (DCYF) for a
9 national criminal records check. The national criminal records check shall be processed prior to the
10 commencement of volunteer activity.

11 (ii) For the purposes of this section, "conviction" means, in addition to judgments of
12 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
13 where the defendant has entered a plea of nolo contendere and has received a sentence of probation
14 and that sentence has not expired and those instances where a defendant has entered into a deferred
15 sentence agreement with the attorney general.

16 (iii) For the purposes of this section, "disqualifying information" means information
17 produced by a national criminal records check pertaining to conviction for the offenses designated
18 as "disqualifying information" pursuant to DCYF policy.

19 (iv) The department of children, youth and families (DCYF) shall inform the applicant, in
20 writing, of the nature of the disqualifying information; and, without disclosing the nature of the
21 disqualifying information, shall notify the family court, in writing, that disqualifying information
22 has been discovered.

23 (v) In those situations in which no disqualifying information has been found, DCYF shall
24 inform the applicant and the family court, in writing, of this fact.

25 (vi) The family court shall maintain on file evidence that national criminal records checks
26 have completed on all volunteer court-appointed special advocates.

1 (vii) The criminal record check shall be conducted without charge to the prospective CASA
2 volunteers. At the conclusion of the background check required pursuant to this section, DCYF
3 shall promptly destroy the fingerprint record of the applicant obtained pursuant to this chapter.

4 (2) All persons seeking to volunteer for CASA must submit a satisfactory DCYF clearance
5 and participate in a program of training offered by the CASA office.

6 (c) If the parent or other person responsible for the child's care is financially unable to
7 engage counsel as determined by the court, the court may, at the request of that person, and in its
8 discretion, appoint the public defender, or other counsel, to represent the person. The cost of other
9 counsel in those instances shall be paid by the state. In every court proceeding under this chapter
10 in which it is a party, the department shall be represented by its legal counsel.

11 SECTION 3. Chapter 40-11 of the General Laws entitled "Abused and Neglected Children"
12 is hereby amended by adding thereto the following section:

13 **40-11-12.5. Review of young adults under the court's legal supervision and receiving**
14 **care and placement services from DCYF.**

15 (a) In the case of a young adult, between the ages of eighteen (18) and twenty-one (21),
16 who has executed a voluntary placement agreement for continued care and placement responsibility
17 from the department and for legal supervision of the court, the permanency plan shall document
18 the reasonable efforts made by the department and the young adult to finalize a permanency plan
19 that addresses the goal of preparing the young adult for independence and successful adulthood.
20 This includes, but is not limited to, housing assistance to obtain supervised independent living
21 arrangements, shared living arrangements or extended foster and kinship care; education,
22 vocational assessment, job training and employment plan needed to transition the young adult to
23 self-sufficiency; assisting the young adult in obtaining educational goals; a job,
24 employment/vocational skills; any other services and supports that will assist the young adult in
25 accessing available services; applying for public benefits; acquiring important documents, such as
26 ID card, driver's license, birth certificate, social security card, health insurance cards, medical

1 records; attending to physical and mental health needs; maintaining relationships with individuals
2 who are important to them and acquiring information about siblings and other maternal and paternal
3 relatives.

4 (b) Initial judicial determination - Within one hundred eighty (180) days of signing the
5 voluntary placement agreement, the department must petition the court to make a determination
6 whether remaining in foster care is in the young adult's best interests.

7 (c) The court shall conduct a permanency hearing within one year after the young adult and
8 the department execute a voluntary placement agreement and annually thereafter. At the
9 permanency hearing, the department shall present a written case plan to the court for approval that
10 details the necessary services, care and placement the young adult shall receive to assist the
11 transition to independence and successful adulthood. The court shall also review the efforts made
12 to assist the youth in forming permanent connections with caring adults, or otherwise establish
13 positive, supportive relationships. The young adult is expected to be present at each permanency
14 hearing, except for good cause shown. The young adult shall be expected to guide the development
15 of the permanency plan. The court shall determine permanency plan for the young adult and
16 whether continued care and placement responsibility from the department is in the best interests of
17 the young adult. The best interests of the young adult shall be paramount.

18 (d) Notice of the court hearings shall be served by the department upon all parties in interest
19 in accordance with the rules of child welfare procedure of the family court.

20 (e) Periodic formal reviews, shall be held not less than once every one hundred eighty (180)
21 days to assess the progress and case plan of any young adult under the court's legal supervision and
22 under the care and placement responsibility of DCYF pursuant to a voluntary agreement for
23 extension of care.

24 The permanency plan shall be reviewed by the court at least once every twelve (12) months
25 at a permanency hearing and by the department in an administrative review within one hundred
26 eighty (180) days after the permanency hearing. The young adult is expected to participate in case

1 planning and periodic reviews.

2 (f) At the administrative review and the permanency hearing the department and the court
3 shall ascertain:

4 (1) Whether the young adult continues to be compliant with the conditions for eligibility
5 for extended care and placement responsibility;

6 (2) Whether the department has made reasonable efforts to finalize a permanency plan that
7 prepares the young adult for a successful transition to independence;

8 (3) Whether the young adult is safe in their placement and continued foster care is
9 appropriate;

10 (4) Whether the young adult has been provided appropriate services or requires additional
11 services and support to achieve the goals documented in the case plan for a successful transition
12 under state or federal law;

13 (5) Whether progress has been made to achieve independence on a projected date;

14 (g) The court may order the department or any other department of state government,
15 consistent with §14-1-59 to take action to access transition services, particularly those necessary to
16 secure affordable housing, to provide vocational testing, assessment and guidance, to acquire job
17 training opportunities and apprenticeships and to apply for any applicable state or federal benefits
18 to ensure that the young adult receives the support and care necessary to achieve independence and
19 successful adulthood.

20 SECTION 4. Section 42-102-10 of the General Laws in Chapter 42-102 entitled
21 "Governor's Workforce Board Rhode Island" is hereby amended to read as follows:

22 **42-102-10. State Career-Pathways System.**

23 The workforce board ("board") shall support and oversee statewide efforts to develop and
24 expand career pathways that enable individuals to secure employment within a specific industry or
25 occupational sector and to advance over time to successively higher levels of education and
26 employment in that sector. Towards this purpose, the board shall convene an advisory committee

1 comprised of representatives from business, labor, adult education, secondary education, higher
2 education, the department of corrections, the executive office of health and human services, the
3 department of children, youth and families, the department of behavioral healthcare, developmental
4 disabilities and hospitals, the office of library and information services, community-based
5 organizations, consumers, and the public-workforce system. Included in the state career-pathways
6 system, shall be the creation of pathways and workforce training programs to fill skill gaps and
7 employment opportunities in the clean-energy sector.

8 SECTION 5. Sections 40-72.1-2, 42-72.1-3, and 42-72.1-6 of the General Laws in Chapter
9 40-72.1 entitled "Licensing and Monitoring of Child Care Providers and Child-Placing Agencies"
10 are hereby amended to read as follows:

11 **42-72.1-2. Definitions.**

12 As used in this chapter:

13 (1) "Administrator of licensing" means the director of the licensing unit (or his/her
14 designee) that carries out the provisions of this chapter, hereafter referred to as the "administrator".

15 (2) "Applicant" means a child-placing agency or childcare provider that applies for a
16 license to operate.

17 (3) "Child" means any person less than eighteen (18) years of age; provided, that a child
18 over eighteen (18) years of age who is nevertheless subject to continuing jurisdiction of the family
19 court, pursuant to chapter 1 of title 14, or defined as emotionally disturbed according to chapter 7
20 of title 40.1, shall be considered a child for the purposes of this chapter.

21 (4) "Childcare provider" means a person or agency, which offers residential or
22 nonresidential care and/or treatment for a child outside of his/her natural home.

23 (5) "Child day care or child care" means daily care and/or supervision offered
24 commercially to the public for any part of a twenty-four (24) hour day to children away from their
25 homes.

1 (6) "Child day care center or child care center" means any person, firm, corporation,
2 association, or agency who, on a regular or irregular basis, receives any child under the age of
3 sixteen (16) years, for the purpose of care and/or supervision, not in a home or residence, apart
4 from the child's parent or guardian for any part of a twenty-four (24) hour day irrespective of
5 compensation or reward. It shall include childcare programs that are offered to employees at the
6 worksite. It does not include nursery schools or other programs of educational services subject to
7 approval by the commissioner of elementary and secondary education.

8 (7) "Child-placing agency" means any private or public agency, which receives children
9 for placement into independent living arrangements, supervised apartment living, residential group
10 care facilities, family foster homes, or adoptive homes.

11 (8) "Department" means the department of children, youth, and families (DCYF).

12 (9) "Director" means the director of the department of children, youth, and families, or the
13 director's designee.

14 (10) "Family day care home" means any home other than the child's home in which child
15 day care in lieu of parental care and/or supervision is offered at the same time to four (4) or more
16 children who are not relatives of the care giver.

17 (11) "Group family day care home" means a residence occupied by an individual of at least
18 twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve
19 (12) children, with the assistance of one or more approved adults, for any part of a twenty-four (24)
20 hour day. The maximum of twelve (12) children shall include children under six (6) years of age
21 who are living in the home, school-age children under the age of twelve (12) years whether they
22 are living in the home or are received for care, and children related to the provider who are received
23 for care. These programs shall be subject to yearly licensing as addressed in this chapter and shall
24 comply with all applicable state and local fire, health, and zoning regulations.

25 (12) "Licensee" means any person, firm, corporation, association, or agency, which holds
26 a valid license under this chapter.

1 (13) "Regulation" means any requirement for licensure, promulgated pursuant to this
2 chapter having the force of law.

3 (14) "Related" means any of the following relationships, by marriage, blood or adoption,
4 even following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt,
5 uncle, and first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant
6 who relies for a defense upon the relationship of any child to him or herself, the defendant shall
7 have the burden of proof as to the relationship.

8 **42-72.1-3. Powers and scope of activities.**

9 (a) The department shall issue, deny, and revoke licenses for, and monitor the operation
10 of, facilities and programs by child placing agencies and child care providers, as defined in § 42-
11 72.1-2 or assess administrative penalty under the provisions of §42-72.11 of this chapter relating
12 to licensed child care centers, family child care homes, group family child care homes.

13 (b) The department shall adopt, amend, and rescind regulations in accordance with this
14 chapter and implement its provisions. The regulations shall be promulgated and become effective
15 in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

16 (c) The department through its licensing unit shall administer and manage the regulations
17 pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and
18 administrative powers necessary to carry out its functions.

19 (d) The administrator shall investigate complaints of noncompliance, and shall take
20 licensing action as required.

21 (e) Regulations formulated pursuant to the foregoing authority shall include, but need not
22 be limited to, the following:

23 (1) Financial, administrative and organizational ability, and stability of the applicant;

24 (2) Compliance with specific fire and safety codes and health regulations;

25 (3) Character, health suitability, qualifications of child care providers;

1 (4) Staff/child ratios and workload assignments of staff providing care or supervision to
2 children;

3 (5) Type and content of records or documents that must be maintained to collect and retain
4 information for the planning and caring for children;

5 (6) Procedures and practices regarding basic child care and placing services to ensure
6 protection to the child regarding the manner and appropriateness of placement;

7 (7) Service to families of children in care;

8 (8) Program activities, including components related to physical growth, social, emotional,
9 educational, and recreational activities, social services and habilitative or rehabilitative treatment;

10 (9) Investigation of previous employment, criminal record check and department records
11 check; and

12 (10) Immunization and testing requirements for communicable diseases, including, but not
13 limited to, tuberculosis, of child care providers and children at any child day-care center or family
14 day-care home as is specified in regulations promulgated by the director of the department of health.

15 Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the
16 department of children, youth, and families.

17 (f) The administrator may:

18 (1) Prescribe any forms for reports, statements, notices, and other documents deemed
19 necessary;

20 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to
21 facilitate compliance with and enforcement of the regulations;

22 (3) Prepare reports and studies to advance the purpose of this chapter;

23 (4) Provide consultation and technical assistance, as requested, to assist licensees in
24 maintaining compliance; and

25 (5) Refer to the advisory council for children and families for advice and consultation on
26 licensing matter.

1 (g) The department may promulgate rules and regulations for the establishment of child
2 day care centers located on the second floor.

3 (h) When the department is otherwise unsuccessful in remedying noncompliance with the
4 provisions of this chapter and the regulations promulgated under it, it ~~shall~~ may petition the family
5 court for an order enjoining the noncompliance or for any order that equity and justice may require.

6 (i) The department shall collaborate with the departments of human services, elementary
7 and secondary education, and health to provide monitoring, mentoring, training, technical
8 assistance, and other services which are necessary and appropriate to improving the quality of child
9 care offered by child care providers who are certified, licensed, or approved by the department or
10 the department of elementary and secondary education or who are seeking certification, licensure,
11 or approval pursuant to § 42-72-1 or § 16-48-2, including non-English speaking providers.

12 (j) The department shall adopt, amend, and rescind regulations in the same manner as set
13 forth above in order to permit the placement of a pregnant minor in a group residential facility
14 which provides a shelter for pregnant adults as its sole purpose.

15 **42-72.1-6. Violations, suspensions and revocations of license.**

16 (a) When a licensee violates the terms of the license, the provisions of this chapter, or any
17 regulation thereunder, the department may pursue the administrative remedies herein provided,
18 including the assessment administrative penalties under the provisions of §42-72.11 of this chapter
19 relating to licensed child care centers, family child care homes, group family child care homes, in
20 addition to other civil or criminal remedies according to the general laws.

21 (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35
22 of title 42, the administrator may revoke the license, or suspend the license for a period not
23 exceeding six (6) months.

24 (c) During a suspension, the agency, facility or program shall cease operation.

25 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of
26 suspension, submit a plan of corrective action to the administrator. The plan shall outline the steps

1 and timetables for immediate correction of the areas of noncompliance and is subject to the
2 approval of the administrator.

3 (e) At the end of the suspension, the administrator may reinstate the license for the term of
4 the original license, revoke the license, issue a new license, or deny a reapplication.

5 (f) Upon revocation, the licensed agency, program or facility shall cease operation. The
6 licensee whose license has been revoked may not apply for a similar license within a three (3) year
7 period from the date of revocation.

8 (g) Except in those instances wherein there is a determination that there exists a danger to
9 the public health, safety, or welfare or there is a determination that the child care provider has
10 committed a serious breach of State law, orders, or regulation, the director shall utilize progressive
11 penalties for noncompliance of any rule, regulation or order relating to child care providers.
12 Progressive penalties could include written notice of noncompliance, education and training,
13 suspending enrollment to the program, assessing fines, suspension of license, and revocation of
14 license.

15 SECTION 6: Title 42 of the General Laws entitled "State Affairs and Government" is
16 hereby amended by adding thereto the following chapter:

17 CHAPTER 42-72.11

18 ADMINISTRATIVE PENALTIES FOR CHILD CARE LICENSING VIOLATIONS

19 **42-72.11-1. Definitions.**

20 As used in this chapter, the following words, unless the context clearly requires
21 otherwise, shall have the following meanings:

22 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty
23 specified by statute or, where not specified by statute, an amount not to exceed five hundred dollars
24 (\$500).

25 (2) "Director" means the director of the department of children, youth and families or his
26 or her duly authorized agent.

1 (3) "Person" means any public or private corporation, individual, partnership, association,
2 or other entity that is licensed as a child care center, family child care home, group family child
3 care home or any officer, employee or agent thereof.

4 (4) "Citation" means a notice of an assessment of an administrative penalty issued by the
5 director or his or her duly authorized agent.

6 **42-72.11-2. Authority of director to assess penalty.**

7 The director may assess an administrative penalty on a person who fails to comply with
8 any provision of any rule, regulation, order, permit, license, or approval issued or adopted by the
9 director, or of any law which the director has the authority or responsibility to enforce.

10 **42-72.11-3. Notice of violation and assessment of penalty.**

11 (a) Whenever the director seeks to assess an administrative penalty on any person, the
12 director shall cause to be served upon the person, either by service, in hand, or by certified mail,
13 return receipt requested, a written notice of its intent to assess an administrative penalty which shall
14 include:

15 (1) A concise statement of the alleged act or omission for which the administrative penalty
16 is sought to be assessed;

17 (2) Each law, rule, regulation, or order which has not been complied with as a result of the
18 alleged act or omission;

19 (3) The amount which the director seeks to assess as an administrative penalty for each
20 alleged act or omission;

21 (4) A statement of the person's right to an adjudicatory hearing on the proposed assessment;

22 (5) The requirements the person must comply with to avoid being deemed to have waived
23 the right to an adjudicatory hearing; and

24 (6) The manner of payment thereof if the person elects to pay the penalty and waive an
25 adjudicatory hearing.

1 **42-72.11-4. Right to adjudicatory hearing.**

2 (a) Whenever the director seeks to assess an administrative penalty on any person
3 the person shall have the right to an adjudicatory hearing under chapter 35 of this title, the
4 provisions of which shall apply except when they are inconsistent with the provisions of this
5 chapter.

6 (b) A person shall be deemed to have waived his or her right to an adjudicatory hearing
7 unless, within ten (10) days of the date of the director's notice that he or she seeks to assess an
8 administrative penalty, the person files with the director a written statement denying the occurrence
9 of any of the acts or omissions alleged by the director in the notice, or asserting that the money
10 amount of the proposed administrative penalty is excessive. In any adjudicatory hearing authorized
11 pursuant to chapter 35 of title 42, the director shall, by a preponderance of the evidence, prove the
12 occurrence of each act or omission alleged by the director.

13 (c) If a person waives his or her right to an adjudicatory hearing, the proposed
14 administrative penalty shall be final immediately upon the waiver.

15 **42-72.11-5. Judicial review.**

16 (a) If an administrative penalty is assessed at the conclusion of an adjudicatory hearing the
17 administrative penalty shall be final upon the expiration of thirty (30) days if no action for judicial
18 review of the decision is commenced pursuant to chapter 35 of this title.

19 (b) The family court shall have exclusive jurisdiction to review all appeals filed under this
20 chapter.

21 **42-72.11-6. Determination of administrative penalty.**

22 Prior to the imposition of an administrative penalty, the department shall complete a risk
23 and safety analysis and the director shall consider the following In determining the amount of each
24 administrative penalty, the director shall include, but not be limited to, the following to the extent
25 practicable in his or her considerations:

1 (1) The actual and potential impact on health, safety and welfare of children impacted the
2 alleged noncompliance;

3 (2) Whether the person being assessed the administrative penalty took steps to prevent
4 noncompliance, and to promptly come into compliance;

5 (3) Whether the person being assessed the administrative penalty has previously failed to
6 comply with any rule, regulation, or order issued or adopted by the director, or any law which the
7 director has the authority or responsibility to enforce;

8 (4) Making compliance less costly than noncompliance;

9 (5)-(4) Deterring future noncompliance;

10 (7)-(5) The amount necessary to eliminate Eliminating the economic advantage of
11 noncompliance;

12 (8) Whether the failure to comply was intentional, willful, or knowing or was the result of
13 error;

14 (9) (6) Any amount specified by Consistency with state and/or federal statute for a similar
15 violation or failure to comply;

16 (10) (7) Any other factor(s) that may be relevant in determining the amount of a penalty,
17 provided that the other factors shall be set forth in the written notice of assessment of the penalty;
18 and;

19 (11) (8) The public interest.

20 **42-72.11-7. Limitations on amount of penalty.**

21 The administrative penalty shall be not more than one thousand dollars (\$1,000) for each
22 violation five hundred dollars (\$500) for each investigation or failure to comply unless a different
23 amount is authorized by statute as a civil penalty for the subject violation. Each and every
24 occurrence and/or day during which the violation or failure to comply is repeated shall constitute a
25 separate and distinct violation.

26 **42-72.11-8. Rules and regulations.**

1 No administrative penalty shall be assessed by the director pursuant to this chapter until
2 the director has promulgated rules and regulations for assessing administrative penalties in
3 accordance with the provisions of chapter 35 of this title.

4 **42-72.11-9. Severability.**

5 If any provision of this chapter or the application thereof to any person or circumstances is
6 held invalid, that invalidity shall not affect other provisions or applications of the chapter, which
7 can be given effect without the invalid provision or application, and to this end the provisions of
8 this chapter are declared to be severable.

9 SECTION 7. Sections 23-24.6-14 and 23-24.6-14.1 of the General Laws in Chapter 23-
10 24.6 entitled "Lead Poisoning Prevention Act" are hereby amended to read as follows:

11 **23-24.6-14 Inspection of child care facilities.**

12 (a) The director shall promulgate regulations requiring that as a condition of licensure all
13 preschools, day care facilities, nursery schools, group family child care homes, family child care
14 homes, child care centers, residential facilities, and public and private elementary schools and
15 schoolyards, and public playgrounds, and shelters and foster homes serving children under the age
16 of six (6) years in Rhode Island:

17 (1) Receive comprehensive environmental lead inspections at specified intervals; and

18 (2) Demonstrate that they are either lead free or lead safe.

19 ~~(b) The director, shall, using state inspectors, conduct comprehensive environmental lead~~
20 ~~inspections for all these facilities at the specified intervals.~~

21 **23-24.6-14.1 Inspection of foster homes.**

22 (a) The director shall promulgate regulations that subject foster homes to, at a minimum, a
23 visual lead inspection to assess whether there are any potential lead hazards in the home. The
24 department of health shall review the results of all lead inspections of foster homes and shall ensure
25 that owners receive all information needed to remediate the lead hazards identified in the
26 inspection.

1 SECTION 8. Section 40-5.2-20 of the General Laws in Chapter 40-5.2 entitled "The Rhode
2 Island Works Program" is hereby amended to read as follows:

3 **40-5.2-20. Child-care assistance.**

4 Families or assistance units eligible for childcare assistance.

5 (a) The department shall provide appropriate child care to every participant who is eligible
6 for cash assistance and who requires child care in order to meet the work requirements in
7 accordance with this chapter.

8 (b) *Low-Income child care.* The department shall provide child care to all other working
9 families with incomes at or below one hundred eighty percent (180%) of the federal poverty level
10 if, and to the extent, such other families require child care in order to work at paid employment as
11 defined in the department's rules and regulations. Beginning July 1, 2018, and contingent on the
12 availability of funding, the department shall provide child care to families with incomes at or below
13 one hundred eighty percent (180%) of the federal poverty level if, and to the extent, such families
14 are enrolled in studies, as defined in the department's rules and regulations, at a Rhode Island
15 institution of higher education, and need child care in order to attend. Beginning October 1, 2013,
16 the department shall also provide child care to families with incomes at or below one hundred
17 eighty percent (180%) of the federal poverty level if, and to the extent, such families require child
18 care to participate on a short-term basis, as defined in the department's rules and regulations, in
19 training, apprenticeship, internship, on-the-job training, work experience, work immersion, or other
20 job-readiness/job-attachment program sponsored or funded by the human resource investment
21 council (governor's workforce board) or state agencies that are part of the coordinated program
22 system pursuant to § 42-102-11.

23 (c) No family/assistance unit shall be eligible for child care assistance under this chapter if
24 the combined value of its liquid resources exceeds ten thousand dollars (\$10,000). Liquid resources
25 are defined as any interest(s) in property in the form of cash or other financial instruments
26 or accounts that are readily convertible to cash or cash equivalents. These include, but are not

1 limited to: cash, bank, credit union, or other financial institution savings, checking, and money
2 market accounts; certificates of deposit or other time deposits; stocks; bonds; mutual funds; and
3 other similar financial instruments or accounts. These do not include educational savings accounts,
4 plans, or programs; retirement accounts, plans, or programs; or accounts held jointly with another
5 adult, not including a spouse. The department is authorized to promulgate rules and regulations to
6 determine the ownership and source of the funds in the joint account.

7 (d) As a condition of eligibility for child care assistance under this chapter, the parent or
8 caretaker relative of the family must consent to, and must cooperate with, the department in
9 establishing paternity, and in establishing and/or enforcing child support and medical support
10 orders for all children in the family in accordance with title 15, as amended, unless the parent or
11 caretaker relative is found to have good cause for refusing to comply with the requirements of this
12 subsection.

13 (e) For purposes of this section, "appropriate child care" means child care, including infant,
14 toddler, pre-school, nursery school, school-age, that is provided by a person or organization
15 qualified, approved, and authorized to provide such care by the department of children, youth, and
16 families, or by the department of elementary and secondary education, or such other lawful
17 providers as determined by the department of human services, in cooperation with the department
18 of children, youth and families and the department of elementary and secondary education.

19 (f) (1) Families with incomes below one hundred percent (100%) of the applicable federal
20 poverty level guidelines shall be provided with free childcare. Families with incomes greater than
21 one hundred percent (100%) and less than one hundred eighty (180%) of the applicable
22 federal poverty guideline shall be required to pay for some portion of the childcare they receive,
23 according to a sliding-fee scale adopted by the department in the department's rules.

24 (2) Families who are receiving childcare assistance and who become ineligible for
25 childcare assistance as a result of their incomes exceeding one hundred eighty percent (180%) of
26 the applicable federal poverty guidelines shall continue to be eligible for childcare assistance until

1 their incomes exceed two hundred twenty-five percent (225%) of the applicable federal poverty
2 guidelines. To be eligible, such families must continue to pay for some portion of the childcare they
3 receive, as indicated in a sliding-fee scale adopted in the department's rules and in accordance with
4 all other eligibility standards.

5 (g) In determining the type of childcare to be provided to a family, the department shall
6 take into account the cost of available childcare options; the suitability of the type of care available
7 for the child; and the parent's preference as to the type of child care.

8 (h) For purposes of this section, "income" for families receiving cash assistance under §
9 40-5.2-11 means gross earned income and unearned income, subject to the income exclusions in
10 subdivisions §§ 40-5.2-10(g)(2) and 40-5.2-10(g)(3), and income for other families shall mean
11 gross, earned and unearned income as determined by departmental regulations.

12 (i) The caseload estimating conference established by chapter 17 of title 35 shall forecast
13 the expenditures for childcare in accordance with the provisions of § 35-17-1.

14 (j) In determining eligibility for child care assistance for children of members of reserve
15 components called to active duty during a time of conflict, the department shall freeze the family
16 composition and the family income of the reserve component member as it was in the month prior
17 to the month of leaving for active duty. This shall continue until the individual is officially
18 discharged from active duty.

19 SECTION 9. Section 40-6.2-1.1 of the General Laws in Chapter 40-6.2 entitled "Child
20 Care – State Subsidies" is hereby amended to read as follows:

21 **40-6.2-1.1. Rates established.**

22 (a) Through June 30, 2015, subject to the payment limitations in section (b), the maximum
23 reimbursement rates to be paid by the departments of human services and children, youth and
24 families for licensed child care centers and ~~certified~~ licensed family-child care providers shall be
25 based on the following schedule of the 75th percentile of the 2002 weekly market rates adjusted for
26 the average of the 75th percentile of the 2002 and the 2004 weekly market rates:

1 LICENSED CHILD CARE CENTERS 75th PERCENTILE OF WEEKLY MARKET RATE

2 INFANT \$182.00

3 PRESCHOOL \$150.00

4 SCHOOL-AGE \$135.00

5 CERTIFIED FAMILYCHILD CARE CHILD CARE PROVIDERS 75th PERCENTILE OF
6 WEEKLY MARKET RATE

7 INFANT \$150.00

8 PRESCHOOL \$150.00

9 SCHOOL-AGE \$135.00

10 ~~Effective July 1, 2015, Through June 30, 2018,~~ subject to the payment limitations in
11 subsection (b), the maximum reimbursement rates to be paid by the departments of human services
12 and children, youth and families for licensed child care centers and ~~certified~~ licensed family-child
13 care providers shall be based on the above schedule of the 75th percentile of the 2002 weekly
14 market rates adjusted for the average of the 75th percentile of the 2002 and the 2004 weekly market
15 rates. These rates shall be increased by ten dollars (\$10.00) per week for infant/toddler care
16 provided by ~~certified~~ licensed family-child care providers and license-exempt providers and then
17 the rates for all providers for all age groups shall be increased by three percent (3%). Effective July
18 1, 2018, subject to the payment limitations in subsection (b), the maximum infant/toddler
19 reimbursement rate to be paid by the departments of human services and children, youth and
20 families for licensed child care centers and—licensed family-child care providers shall be
21 implemented in a tiered manner, reflective of the quality rating the provider has achieved within
22 the State's Quality Rating System outlined in § 42-12-23.1. The rates shall be based on the 2015
23 market rate survey and shall be updated when future market rate surveys are completed. Rates will
24 be established by the department of human services. The rates will be established by the department
25 of human services and in developing the rates the department shall take into consideration recent
26 market rate surveys. No rate shall be below \$193 for licensed child care centers for full time care,

1 and \$169 for licensed family child care homes for full time care, and the rate for Providers achieving
2 a five-star rating in the quality rating system will be no less than the 75th percentile of the market
3 rate.

4 (b) The departments shall pay child care providers based on the lesser of the applicable
5 rate specified in subsection (a), or the lowest rate actually charged by the provider to any of its
6 public or private child care customers with respect to each of the rate categories, infant, preschool
7 and school-age.

8 (c) By June 30, 2004 and biennially through June 30, 2014, the department of labor and
9 training shall conduct an independent survey or certify an independent survey of the then current
10 weekly market rates for child care in Rhode Island and shall forward such weekly market rate
11 survey to the department of human services. The next survey shall be conducted by June 30, 2016,
12 and triennially thereafter. The departments of human services and labor and training will jointly
13 determine the survey criteria including, but not limited to, rate categories and sub-categories.

14 (d) In order to expand the accessibility and availability of quality child care, the department
15 of human services is authorized to establish by regulation alternative or incentive rates of
16 reimbursement for quality enhancements, innovative or specialized child care and alternative
17 methodologies of child care delivery, including non-traditional delivery systems and
18 collaborations.

19 (e) ~~On or before~~ Effective January 1, 2007, all child care providers have the option to be
20 paid every two (2) weeks and have the option of automatic direct deposit and/or electronic funds
21 transfer of reimbursement payments.

22 SECTION 10: Chapter 42-102 of the General Laws entitled "Governor's Workforce Board
23 Rhode Island" is hereby amended by adding thereto the following section:

24 **42-102-10.1. Career Opportunities for Young Adults**

25 (a) The department of labor and training, governor's workforce board, and department of
26 children, youth and families shall work collaboratively to ensure that each young adult, as defined

1 in §14-1-3 of the General Laws, shall upon request by the young adult, receive a vocational
2 assessment and shall have access to all appropriate job training programs and eligible services.

3 (b) For those young adults who desire to participate in job training programs as part of
4 their permanency plan to achieve independence and self-sufficiency, the department of labor and
5 training, governor's workforce board, and department of children, youth and families shall work
6 collaboratively to devise an individual employment plan suitable to the talents and abilities of the
7 young adult, determine which additional specialized workforce and supportive services may be
8 necessary to accomplish the goals of the plan and provide the additional services as needed.

9 (c) The governor's workforce board, in conjunction with the department of labor and
10 training, shall develop and expand career pathways, job training programs, and employment
11 services for young adults as defined in §14-1-3 of the General Laws.

12 (d) The department of labor and training, governor's workforce board, and department of
13 children, youth and families shall track movement of these young adults into the workforce, and
14 will publish an annual report on outcomes to the governor, the general assembly and the family
15 court.

16 (e) Programs and resources shall be contingent upon available funding.

17 SECTION 10-11. This Article shall take effect upon passage.

