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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES -- STATUTES AND
STATUTORY CONSTRUCTION

Introduced By: Representative Joshua J. Giraldo

Date Introduced: February 21, 2023

Referred To: House Judiciary

(Dept. of BHDDH)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-24-7, 16-24-10, 16-24-11 and 16-24-16 of the General Laws in
2 Chapter 16-24 entitled "Children With Disabilities [See Title 16 Chapter 97 — The Rhode Island
3 Board of Education Act]" are hereby amended to read as follows:

4 ~~16-24-7. "Mentally retarded minors" defined. Minors with intellectual and/or~~
5 ~~developmental disabilities defined. Minors with intellectual or developmental disabilities~~
6 ~~defined.~~

7 The term ~~"mentally retarded minors"~~ "minors with intellectual or developmental
8 disabilities" means all children between the age of three (3) and twenty-one (21) who because of
9 ~~retarded~~ delayed intellectual development, as determined by an individual multidisciplinary
10 evaluation, require specialized instruction appropriate to their individual capacity.

11 ~~16-24-10. Arrangements by cities and towns having small numbers of retarded~~
12 ~~children. Arrangements by cities and towns having small numbers of children with~~
13 ~~intellectual and/or developmental disabilities. Arrangements by cities and towns having small~~
14 ~~numbers of children with intellectual or developmental disabilities.~~

15 Each city and town which contains fewer than eight (8) ~~mentally retarded~~ minors with
16 intellectual or developmental disabilities may contract with another city or town for the education
17 of the minors or may establish a special class pursuant to the previous provision with the consent
18 of the board of regents for elementary and secondary education. In the event that a city or town

1 does not establish a class for fewer than eight (8) ~~mentally-retarded~~ minors with intellectual or
2 developmental disabilities or contract with another city or town, then the city or town shall contract
3 with a suitable day school for instruction adapted to the mental attainments of the minors; provided
4 that the day schools shall be subject to the regulations and supervision of the state board of regents
5 for elementary and secondary education.

6 **16-24-11. ~~Transportation for retarded children. Transportation for children with~~**
7 **~~intellectual and/or developmental disabilities. Transportation for children with intellectual~~**
8 **or developmental disabilities.**

9 Transportation shall be provided for all pupils attending a special class or suitable day
10 schools.

11 **16-24-16. Approved centers.**

12 For the purpose of furnishing transportation and providing incidental expenses for the
13 education of ~~mentally-retarded children under the age of eighteen (18)~~ minors with intellectual or
14 developmental disabilities, a center approved by the director of behavioral healthcare,
15 developmental disabilities and hospitals shall be decreed to be a school as considered in this
16 chapter.

17 SECTION 2. Sections 23-17.8-1 and 23-17.8-3.1 of the General Laws in Chapter 23-17.8
18 entitled "Abuse in Healthcare Facilities" are hereby amended to read as follows:

19 **23-17.8-1. Definitions.**

20 (a)(1) "Abuse" means:

21 (i) Any assault as defined in chapter 5 of title 11, including, but not limited to, hitting,
22 kicking, pinching, slapping, or the pulling of hair; provided, however, unless it is required as an
23 element of the offense charged, it shall not be necessary to prove that the patient or resident was
24 injured by the assault;

25 (ii) Any assault as defined in chapter 37 of title 11;

26 (iii) Any offense under chapter 10 of title 11;

27 (iv) Any conduct which harms or is likely to physically harm the patient or resident except
28 where the conduct is a part of the care and treatment, and in furtherance of the health and safety of
29 the patient or resident; or

30 (v) Intentionally engaging in a pattern of harassing conduct which causes or is likely to
31 cause emotional or psychological harm to the patient or resident, including but not limited to,
32 ridiculing or demeaning a patient or resident, making derogatory remarks to a patient or resident or
33 cursing directed towards a patient or resident, or threatening to inflict physical or emotional harm
34 on a patient or resident.

1 (2) Nothing in this section shall be construed to prohibit the prosecution of any violator of
2 this section under any other chapter.

3 (b) "Department" means the department of health when the incident occurs in a health care
4 facility, and the department of behavioral healthcare, developmental disabilities and hospitals when
5 the incident occurs in a community residence for ~~people who are mentally retarded or~~ persons with
6 intellectual or developmental disabilities.

7 (c) "Facility" means any health care facility or community residence for ~~persons who are~~
8 ~~mentally retarded, or~~ persons with intellectual or developmental disabilities as those terms are
9 defined in this section. "Health care facility" means any hospital or facility which provides long-
10 term health care required to be licensed under chapter 17 of this title, and any assisted living
11 residence required to be licensed under chapter 17.4 of this title, and any community residence
12 whether privately or publicly owned. "Community residence" for persons ~~who are mentally~~
13 ~~retarded or persons~~ with intellectual or developmental disabilities means any residential program
14 licensed by the department of behavioral healthcare, developmental disabilities and hospitals which
15 meets the definition of a community residence as defined in § 40.1-24-1(2) and provides services
16 to ~~people who are mentally retarded or~~ persons with intellectual or developmental disabilities.

17 (d) "High Managerial Agent" means an officer of a facility, the administrator and assistant
18 administrator of the facility, the director and assistant director of nursing services, or any other
19 agent in a position of comparable authority with respect to the formulation of the policies of the
20 facility or the supervision in a managerial capacity of subordinate employees.

21 (e) "Mistreatment" means the inappropriate use of medications, isolation, or use of physical
22 or chemical restraints:

23 (1) As punishment;

24 (2) For staff convenience;

25 (3) As a substitute for treatment or care;

26 (4) In conflict with a physician's order; or

27 (5) In quantities which inhibit effective care or treatment, or which harms or is likely to
28 harm the patient or resident.

29 (f) "Neglect" means the intentional failure to provide treatment, care, goods, and services
30 necessary to maintain the health and safety of the patient or resident, or the intentional failure to
31 carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the
32 intentional failure to report patient or resident health problems or changes in health problems or
33 changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention
34 to the physical needs of a patient or resident including, but not limited to toileting, bathing, meals,

1 and safety. No person shall be considered to be neglected for the sole reason that he or she relies
2 on or is being furnished treatment in accordance with the tenets and teachings of a well-recognized
3 church or denomination by a duly-accredited practitioner of a well-recognized church or
4 denomination.

5 (g) "Patient" means any person who is admitted to a facility for treatment or care, while
6 "resident" means any person who maintains their residence or domicile, on either a temporary or
7 permanent basis, in a facility.

8 (h) "Person" means any natural person, corporation, partnership, unincorporated
9 association, or other business entity.

10 (i) "Immediate jeopardy" means a situation in which the nursing facility's alleged
11 noncompliance with one or more state or federal requirements or conditions has caused, or is likely
12 to cause serious injury, harm, impairment or death to a resident; or shall be defined in accordance
13 with 42 CFR 489 or any subsequent applicable federal regulations.

14 (j) "Non-immediate jeopardy — high potential for harm" means a situation in which a
15 nursing facility's alleged noncompliance with one or more state or federal requirements or
16 conditions may have caused harm that negatively impacts the individual's mental, physical and/or
17 psychosocial status; or shall be defined in accordance with 42 CFR 489 or any subsequent
18 applicable federal regulations.

19 (k) "Non-immediate jeopardy — medium potential for harm" means a situation in which a
20 nursing facility's alleged noncompliance with one or more state or federal requirements or
21 conditions has caused or may have caused harm that is of limited consequence and does not
22 significantly impair the individual's mental, physical and/or psychosocial status to function; or shall
23 be defined in accordance with 42 CFR 489 or any subsequent applicable federal regulations.

24 (l) "Non-immediate jeopardy — low potential for harm" means a situation in which a
25 nursing facility's alleged noncompliance with one or more state or federal requirements or
26 conditions may have caused mental, physical and/or psychosocial discomfort that does not
27 constitute injury or damage; or shall be defined in accordance with 42 CFR 489 or any subsequent
28 applicable federal regulations.

29 **23-17.8-3.1. Physician's, certified registered nurse practitioner's and physician**
30 **assistant's report of examination — Duty of facility.**

31 Whenever a facility shall receive a report by a person other than a physician or a certified
32 registered nurse practitioner or physician assistant that a patient or resident of the facility has been
33 harmed as a result of abuse, neglect, or mistreatment, the facility shall have the patient examined
34 by a licensed physician or a certified registered nurse practitioner or physician assistant. It shall be

1 mandatory for the physician or certified registered nurse practitioner or physician assistant to make
2 a preliminary report of his or her findings to the department of health for a healthcare facility, or to
3 the department of behavioral healthcare, developmental disabilities and hospitals for a community
4 residence for ~~people who are mentally retarded or~~ persons with intellectual or developmental
5 disabilities and to the facility within forty-eight (48) hours after his or her examination, and a
6 written report within five (5) days after his or her examination.

7 SECTION 3. Section 23-74-4 of the General Laws in Chapter 23-74 entitled "Unlicensed
8 Health Care Practices" is hereby amended to read as follows:

9 **23-74-4. Prohibited conduct.**

10 The director may impose disciplinary action as described in this chapter against any
11 unlicensed health care practitioner. The following conduct is prohibited and is grounds for
12 disciplinary action:

13 (1) Conviction of a crime, including a finding or verdict of guilt, and admission of guilt, or
14 a no contest plea, in any court in Rhode Island or any other jurisdiction in the United States,
15 reasonably related to engaging in health care practices. Conviction, as used in this subdivision,
16 includes a conviction of an offense which, if committed in this state, would be deemed a felony or
17 misdemeanor, without regard to its designation elsewhere, or a criminal proceeding where a finding
18 or verdict of guilty is made or returned, but the adjudication of guilt is either withheld or not entered.

19 (2) Engaging in sexual contact with an unlicensed health care client, engaging in contact
20 that may be reasonably interpreted by a client as sexual or engaging in sexual exploitation of a
21 client.

22 (3) Advertising that is false, fraudulent, deceptive, or misleading.

23 (4) Conduct likely to deceive, defraud, or harm the public or demonstrating a willful or
24 careless disregard for the health or safety of an unlicensed health care client in which case, proof
25 of actual injury need not be established.

26 (5) Adjudication as mentally incompetent or as a person who is dangerous to self or
27 adjudicated as any of the following: chemically dependent, mentally ill, ~~mentally retarded~~, mentally
28 ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous
29 person.

30 (6) Inability to engage in unlicensed health care practices with reasonable safety to
31 unlicensed health care clients.

32 (7) Dependence upon controlled substances, habitual drunkenness or engaging in
33 unlicensed health care practices while intoxicated or incapacitated by the use of drugs.

34 (8) Revealing a communication from, or relating to, an unlicensed health care client except

1 when otherwise required or permitted by law.

2 (9) Failure to comply with an unlicensed health care client's request to furnish an
3 unlicensed health care client record or report required by law.

4 (10) Splitting fees or promising to pay a portion of a fee to any other professional other
5 than for services rendered by the other professional to the unlicensed health care client.

6 (11) Engaging in abusive or fraudulent billing practices, including violations of the federal
7 Medicare and Medicaid laws or state medical assistance laws.

8 (12) Obtaining money, property, or services from an unlicensed health care client, other
9 than reasonable fees for services provided to the client, through the use of undue influence,
10 harassment, duress, deception, or fraud.

11 (13) Failure to provide an unlicensed health care client with a copy of the client bill of
12 rights or violation of any provision of the client bill of rights.

13 (14) Violating any order issued by the director.

14 (15) Failure to comply with any provision of any rules adopted by the director.

15 (16) Failure to comply with any additional disciplinary grounds established by the director
16 by rule.

17 (17) Revocation, suspension, restriction, limitation, or other disciplinary action against any
18 health care license, certificate, registration, or right to practice of the unlicensed health care
19 practitioner in this or another state or jurisdiction for offenses that would be subject to disciplinary
20 action in this state or failure to report to the department that charges regarding the practitioner's
21 license, certificate, registration, or right of practice have been brought in this or another state or
22 jurisdiction.

23 (18) False or misleading use of the title "doctor," "Dr.," "physician" alone or in
24 combination with any other words, letters, or insignia to describe the unlicensed health care
25 practices the practitioner provides.

26 SECTION 4. Section 31-6-6 of the General Laws in Chapter 31-6 entitled "Registration
27 Fees" is hereby amended to read as follows:

28 **31-6-6. Vehicles exempt from fees.**

29 (a) No registration fee is required for the registration of motor-driven equipment owned by
30 the following:

31 (1) American Legion bloodmobile;

32 (2) American National Red Cross or any of its chapters within this state;

33 (3) American Red Cross, Jamestown chapter ambulance;

34 (4) American Red Cross, Tiverton chapter ambulance;

- 1 (5) American Red Cross, Warwick chapter ambulances;
- 2 (6) Animal Rescue League of Southern Rhode Island truck used for rescue work;
- 3 (7) Burrillville Ambulance Corps ambulance;
- 4 (8) Burrillville American Legion Post No. 17 ambulances;
- 5 (9) Civil Air Patrol, Rhode Island wing motor vehicle equipment;
- 6 (10) East Greenwich Ambulance Association ambulances;
- 7 (11) East Greenwich American Legion Post No. 15 (incorporated February 20, 1933)
- 8 ambulances;
- 9 (12) East Tiverton Volunteer Fire Department Rescue Squad of Tiverton (a non-business
- 10 corporation, incorporated February 16, 1955) equipment, that motor vehicle being a rescue truck
- 11 equipped with resuscitators, underwater equipment, emergency lighting units with generators, and
- 12 various other devices needed to effect rescue and save lives and property under any emergency and
- 13 used for this purpose only;
- 14 (13) Foster Ambulance Association ambulances;
- 15 (14) Georgiaville Volunteer Fire Company, Smithfield town ambulance;
- 16 (15) Glocester Ambulance Corps, Inc. ambulance;
- 17 (16) Hianloland Farms Fire Engine Company of West Greenwich RI, (a non-business
- 18 corporation, incorporated November 15, 1940) equipment;
- 19 (17) Hope Valley Ambulance Squad, Inc., ambulances and rescue trucks;
- 20 (18) Hope Valley volunteer fire company ambulances;
- 21 (19) Hope Valley volunteer fire company crash-truck;
- 22 (20) Hospital ambulances;
- 23 (21) Johnston Hose Company No. 1 ambulance;
- 24 (22) Johnston Hose Company No. 3 ambulance;
- 25 (23) Lake Mishnock Volunteer Fire Company Rescue Squad, West Greenwich, Rhode
- 26 Island;
- 27 (24) Le Baron C. Colt Memorial Ambulance, Inc. (with plates designated "car 5,"
- 28 providing ambulance service to any resident of the town of Bristol, incorporated October 17, 1923,
- 29 as a charitable corporation) ambulance;
- 30 (25) Narragansett Rescue Corps, Inc., ambulance;
- 31 (26) North Kingstown Ambulance Association, Inc. (incorporated July 23, 1943, as a
- 32 charitable corporation) ambulance;
- 33 (27) North Providence Chamber of Commerce Ambulance Service, Inc. (incorporated
- 34 March 15, 1947, as a charitable corporation) ambulance;

- 1 (28) North Smithfield Ambulance Association ambulances;
- 2 (29) North Smithfield Ambulance and Rescue Association rescue wagon and rescue boat
3 trailer;
- 4 (30) Northern Lincoln Volunteer Ambulance Corps ambulance;
- 5 (31) Northern Rhode Island Radio Emergency Associated Citizens Teams (REACT) rescue
6 truck and other emergency vehicles;
- 7 (32) Public health league or district nursing association in any city or town in this state;
- 8 (33) Rhode Island American Legion, (incorporated January 29, 1941) first district
9 ambulance committee of the department ambulances;
- 10 (34) ~~Rhode Island Association of Retarded Citizens, Northern Rhode Island Chapter motor~~
11 ~~vehicles used for the transportation of retarded citizens~~ [Seven Hills Rhode Island](#);
- 12 (35) ~~Rhode Island Association of Retarded Citizens, South County Chapter motor vehicles~~
13 ~~used for the transportation of retarded children~~ [Perspectives Corporation](#);
- 14 (36) ~~Rhode Island Association for Retarded Children, Westerly Charito Chapter motor~~
15 ~~vehicles to be used for the transportation of retarded children~~ [Frank Olean Center](#);
- 16 (37) Rhode Island Society for the Prevention of Cruelty to Animals' motor vehicles;
- 17 (38) Rhode Island Lions Sight Foundation, Inc., vehicle;
- 18 (39) Rhode Island state departments' or agencies' motor vehicles, trailers, or semi-trailers;
- 19 (40) Roy Carpenter's beach volunteer fire department, Matunuck ambulance;
- 20 (41) Salvation Army of Providence emergency canteen vehicle;
- 21 (42) Scituate Ambulance and Rescue Corps ambulances;
- 22 (43) South County Ambulance Corps, Inc. (incorporated October 28, 1939, as a charitable
23 corporation) ambulance;
- 24 (44) South Foster Volunteer Fire Department No. 1 ambulances;
- 25 (45) United States government motor vehicles;
- 26 (46) United States government-accredited motor vehicles owned by a representative of a
27 foreign country;
- 28 (47) United States mail rural free delivery driver-owned vehicles. This exemption applies
29 to the particular motor vehicle used in carrying that mail, and not to persons or concerns contracting
30 to carry the United States mail. The words "United States mail" must be plainly printed on two (2)
31 sides of that vehicle;
- 32 (48) Veterans of Foreign Wars bloodmobile;
- 33 (49) Veterans of Foreign Wars, Harold F. Flynn Post No. 263, Woonsocket ambulance;
- 34 (50) Volunteer ambulance or rescue corps ambulance or rescue vehicle of a city or town

1 used in transporting sick or injured patients;

2 (51) Westerly Ambulance Corps boat-trailer;

3 (52) Westerly Ambulance Corps crash-truck; and

4 (53) Westerly Ambulance Corps ambulances.

5 (b) Each owner may be required to pay the cost price of the number plates or markers
6 required to be displayed on its vehicle.

7 SECTION 5. Section 33-5-4 of the General Laws in Chapter 33-5 entitled "Execution and
8 Revocation of Wills" is hereby amended to read as follows:

9 **33-5-4. Nomination of guardian by will.**

10 Every person authorized by law to make a will may nominate by his or her will a guardian
11 or guardians for his or her children during their minority, and a successor guardian or guardians for
12 persons ~~who are retarded~~ with intellectual or developmental disabilities as defined in chapter 22 of
13 title 40.1 for whom he or she had been appointed guardian during his or her lifetime, and the probate
14 court shall appoint the guardian or guardians unless good cause be shown to the contrary; provided,
15 that, in the case of husband and wife, the survivor, being otherwise qualified, shall be the guardian
16 of their children.

17 SECTION 6. Section 34-4-25 of the General Laws in Chapter 34-4 entitled "Estates in Real
18 Property" is hereby amended to read as follows:

19 **34-4-25. Invalidity of certain restrictive covenants.**

20 Since many ~~mentally retarded and mentally disabled~~ individuals with intellectual or
21 developmental disabilities or who are mentally disabled are able to live in the community with
22 some assistance, it is the public policy of the state of Rhode Island to establish community
23 residences in residential areas. Therefore, any restrictive covenant or other private legal
24 impediment which directly or indirectly prevents or restricts the establishment of licensed
25 community residences as defined in § 40.1-24-1 for eight (8) or fewer ~~mentally retarded or mentally~~
26 ~~disabled~~ persons with intellectual or developmental disabilities shall be void and unenforceable as
27 to those community residences.

28 SECTION 7. Chapter 40.1-8 of the General Laws entitled "Governor's Committee on
29 Mental Retardation" is hereby repealed in its entirety.

30 ~~CHAPTER 40.1-8~~

31 ~~Governor's Committee on Mental Retardation~~

32 ~~**40.1-8-1. Creation — Members.**~~

33 ~~(a) There is hereby created a fourteen (14) member permanent committee to be known as~~
34 ~~the "Governor's Committee on Mental Retardation," hereinafter referred to as "the committee":~~

1 ~~(1) Six (6) of whom shall be representatives of non-governmental organizations or groups~~
2 ~~concerned with education, employment, rehabilitation, welfare, and health, to be appointed by the~~
3 ~~governor;~~

4 ~~(2) Six (6) of whom shall be representatives of consumers who are mentally retarded, of~~
5 ~~this group, three (3) of whom shall be selected from a list of nominees submitted by the RI ARC,~~
6 ~~to be appointed by the governor;~~

7 ~~(3) One of whom shall be from the house of representatives to be appointed by the speaker;~~

8 ~~(4) And one of whom shall be from the senate to be appointed by the president of the senate.~~

9 ~~(b) The assistant director for developmental disabilities within the department of behavioral~~
10 ~~healthcare, developmental disabilities and hospitals shall serve as an ex-officio member but shall~~
11 ~~not be eligible to vote.~~

12 ~~(c) No employee of any state agency or institution engaged in the care or training of persons~~
13 ~~who are mentally retarded shall be eligible for appointment to the committee.~~

14 ~~**40.1-8-2. Terms of appointment.**~~

15 ~~(a) Of the nonlegislative members appointed originally under this chapter, one third (1/3)~~
16 ~~shall be appointed for a term of one year; one third (1/3) shall be appointed for a term of two (2)~~
17 ~~years; and one third (1/3) shall be appointed for a term of three (3) years. The two (2) legislative~~
18 ~~members shall serve for the length of their current elected term in office and reappointment or~~
19 ~~replacement shall be for like terms. Thereafter, vacancies created by the expiration of terms shall~~
20 ~~be filled with appointments for terms of three (3) years. Members whose terms expire may be~~
21 ~~reappointed to succeed themselves.~~

22 ~~(b) Vacancies occurring prior to the expiration of the term for which appointed shall be~~
23 ~~filled by appointment in like manner for the remainder of the term.~~

24 ~~**40.1-8-3. Appointment of officers and employees — Rules — Meetings.**~~

25 ~~(a) The governor shall designate one member of the committee to serve as its chairperson~~
26 ~~during the governor's term of office or until he or she appoints another member of the committee~~
27 ~~to serve in that capacity. The committee shall elect annually, from among its members, a vice~~
28 ~~chairperson, who shall serve as such until a successor is elected and who is authorized to act as~~
29 ~~chairperson pro tempore of the committee during the absence of the chairperson or should there be~~
30 ~~a vacancy for any cause in the office of the chairperson. The committee shall appoint an executive~~
31 ~~secretary to serve as executive officer and secretary of the committee. The executive secretary may~~
32 ~~be the employee of another agency of state government, appointed to serve as executive secretary~~
33 ~~of the committee, with the consent of the executive office of the secretary's own agency.~~

34 ~~(b) The committee may appoint such other personnel as may be necessary for the efficient~~

1 ~~performance of the duties prescribed by this chapter.~~

2 ~~(c) The committee shall make rules for the conduct of its affairs, and shall meet at least~~
3 ~~bimonthly, and at other times upon the call of the chair or the written request of any two (2)~~
4 ~~members.~~

5 ~~**40.1-8-4. Compensation and expenses of committee.**~~

6 ~~The members of the committee shall receive no compensation for their services as~~
7 ~~committee members, but may, at the discretion of the governor, be reimbursed for traveling and~~
8 ~~other expenses actually incurred in the performance of their official duties.~~

9 ~~**40.1-8-5. Purpose of committee.**~~

10 ~~(a) It shall be the duty of the committee to work in cooperation with the President's~~
11 ~~Committee for People with Intellectual Disabilities and such other interested federal and state~~
12 ~~agencies, private organizations, and community groups in promoting the amelioration of mental~~
13 ~~retardation through the utilization of whatever community and state resources the committee may~~
14 ~~deem necessary to accomplish this.~~

15 ~~(b) The committee shall consider and advise the governor, through the office of mental~~
16 ~~retardation, and the department of behavioral healthcare, developmental disabilities and hospitals,~~
17 ~~on such mental retardation legislation and other retardation matters as its members, the governor,~~
18 ~~the director of the department of behavioral healthcare, developmental disabilities and hospitals,~~
19 ~~and the assistant director for mental retardation may request; including, but not being limited to,~~
20 ~~advising and consulting with the office of mental retardation concerning improving the care,~~
21 ~~rehabilitation, and the training of mentally retarded persons, purchase of facilities, plans for~~
22 ~~construction of mental retardation facilities and the administration of programs and facilities~~
23 ~~(private and public) which receive state funds for the purpose of ameliorating mental retardation~~
24 ~~and/or otherwise providing services for mentally retarded persons.~~

25 ~~**40.1-8-6. Authority to receive gifts.**~~

26 ~~The committee is authorized to receive any gifts, grants, or donations made for any of the~~
27 ~~purposes of its program, and to disburse and administer the same in accordance with the terms~~
28 ~~thereof.~~

29 SECTION 8. Section 40.1-24.5-1 of the General Laws in Chapter 40.1-24.5 entitled
30 "Community Residences" is hereby amended to read as follows:

31 ~~**40.1-24.5-1. Definitions.**~~

32 Whenever used in this chapter, or in any order, rule, or regulation made or promulgated
33 pursuant to this chapter or in any printed forms prepared by the department of behavioral healthcare,
34 developmental disabilities and hospitals in furtherance of this chapter, unless otherwise expressly

1 stated, or unless the context or subject matter otherwise requires:

2 (1) "Community residence" means a place, such as a group home, however named, licensed
3 pursuant to chapter 24 of this title for the purpose of providing rehabilitation, psychological
4 support, skills training, social guidance, and living accommodations to individuals who are
5 mentally disabled, as defined by § 40.1-5-2; provided, however, that this definition shall not be
6 deemed to include places, however named, for persons with intellectual or developmental
7 disabilities, or ~~who are mentally retarded, alcoholics, or drug abusers~~ persons with substance use
8 disorders.

9 (2) "Director" means the head or the chief administrative officer of the community
10 residence, or his or her designee.

11 (3) "Grievance procedure" means the formalized process mandated by § 40.1-24.5-8 to
12 enable residents to register alleged violations of the resident's rights assured by §§ 40.1-24.5-5 and
13 40.1-24.5-6.

14 (4) "Individualized service plan" means the document that sets forth specific services, such
15 as vocational, social, medical, psychiatric, and rehabilitative, that are structured to accomplish and
16 express short- and long-term goals and objectives responsive to the individual needs of the resident.

17 (5) "Mental health advocate" means and refers to the individual appointed by the governor
18 with the advice and consent of the senate in accordance with § 40.1-5-14 and to his or her duly
19 appointed assistants.

20 (6) "Person" means any individual, partnership, corporation, company, or association and
21 the legal successors in interest thereof.

22 (7) "Resident" means an individual of lawful age admitted to a community residence.

23 SECTION 9. Sections 40.1-21-4.3 and 40.1-21-11 of the General Laws in Chapter 40.1-21
24 entitled "Division of Developmental Disabilities" are hereby amended to read as follows:

25 **40.1-21-4.3. Definitions.**

26 As used in this chapter and in chapter 22 of this title the words:

27 ~~(5)(1) "Developmentally disabled adult"~~ "Adult with intellectual or developmental
28 disabilities" means a person, eighteen (18) years old or older and not under the jurisdiction of the
29 department of children, youth and families who is either ~~a mentally retarded developmentally~~
30 ~~disabled~~ an adult with intellectual or developmental disabilities or is a person with a severe, chronic
31 disability that:

32 (i) Is attributable to a mental or physical impairment or combination of mental and physical
33 impairments;

34 (ii) Is manifested before the person attains age twenty-two (22);

- 1 (iii) Is likely to continue indefinitely;
- 2 (iv) Results in substantial functional limitations in three (3) or more of the following areas
- 3 of major life activity:
- 4 (A) Self care;
- 5 (B) Receptive and expressive language;
- 6 (C) Learning;
- 7 (D) Mobility;
- 8 (E) Self-direction;
- 9 (F) Capacity for independent living;
- 10 (G) Economic self-sufficiency; and

11 (v) Reflects the person’s need for a combination and sequence of special, interdisciplinary,

12 or generic care, treatment, or other services that are of lifelong or extended duration and are

13 individually planned and coordinated. For purposes of funding, it is understood that students

14 enrolled in school will continue to receive education from their local education authority in

15 accordance with § 16-24-1 et seq.

16 (vi) In addition, the words “adult with intellectual or developmental disabilities” also

17 means a person eighteen (18) years old or older and not under the jurisdiction of the department of

18 children, youth and families, with significant sub-average, general intellectual functioning two (2)

19 standard deviations below the norm, existing concurrently with deficits in adaptive behavior and

20 manifested during the developmental period. For purposes of funding, it is understood that students

21 enrolled in school will continue to receive education from their local education authority in

22 accordance with § 16-21 24-1 et seq.

23 ~~(2)~~ “Ancillary services” means those services provided, and shall include, but not be

24 limited to, transportation, housing, housing adaptation, personal attendant care, and homemaker

25 services.

26 ~~(3)~~ “Case management” means the implementation of an individual’s program by

27 providing information, by referral to appropriate service providers, by procurement of services, and

28 by the coordination of the necessary services.

29 ~~(4)~~ “Department” means the Rhode Island department of behavioral healthcare,

30 developmental disabilities and hospitals.

31 ~~(5)~~ “Developmental services” means those services provided to developmentally

32 disabled adults, and shall include, but not be limited to, habilitation and rehabilitation services, and

33 day services.

34 (6) “Diagnosis and evaluation” means a process to determine whether and to what extent

1 an individual is intellectually or developmentally disabled and a study of the individual's condition,
2 situation, and needs that lead to a recommendation of what services, if any, would benefit the
3 individual.

4 (7) "Individualized program plan" or "general service plan" means a plan, however named,
5 that includes, but shall not be limited to, the following:

6 (i) An evaluation of the strengths, difficulties, needs, and goals of the individual;

7 (ii) A description of those services found to be necessary or appropriate to assist the
8 individual in realizing his or her potential for self-sufficiency in major life activities;

9 (iii) A description of the agencies and/or individuals, who or that are proposed to provide
10 each of the recommended services;

11 (iv) The intermediate and long-range objectives for the individual's development and
12 habilitation;

13 (v) The expected duration for the provision of the services;

14 (vi) A description of the tests and other evaluative devices used and their results;

15 (vii) Proposed criteria for monitoring and evaluating the success of the services in meeting
16 the individual's needs; and

17 (viii) The signatures of the preparers of the plan and the date.

18 The individual program plan shall indicate developmental, supportive, or ancillary services
19 by function and frequency, the manner of subsidy and delivery and the categories of need for
20 services such as transportation, job training, or occupation, housing, housing adaptation, personal
21 attendant care, homemaker, or other services. This plan shall be reviewed at least annually;
22 provided, however, that authorizations for services and funding issued prior to July 1, 2011, are
23 null and void. Authorizations will be paid at the rate effective in the quarter the service was
24 provided.

25 ~~(8) "Mentally retarded developmentally disabled adult" means a person eighteen (18) years~~
26 ~~old or older and not under the jurisdiction of the department of children, youth and families, with~~
27 ~~significant sub average, general intellectual functioning two (2) standard deviations below the~~
28 ~~norm, existing concurrently with deficits in adaptive behavior and manifested during the~~
29 ~~developmental period. For purposes of funding, it is understood that students enrolled in school~~
30 ~~will continue to receive education from their local education authority in accordance with § 16-~~
31 ~~24-1 et seq.~~

32 (9)(8) "Service broker" means that individual who assists in facilitating the connection
33 between the ~~developmentally disabled~~ person with intellectual or developmental disabilities and
34 the services required by the individual program plan.

1 ~~(10)~~(9) “Subsidized access to service” means the provisions of financial resources through
2 vouchers to a ~~developmentally disabled~~ person with intellectual or developmental disabilities to
3 enable the person to gain access to appropriate generic and/or special services as required by the
4 individual program plan.

5 ~~(11)~~(10) “Supportive services” means those services provided to ~~developmentally disabled~~
6 adults with intellectual or developmental disabilities, and shall include, but not be limited to,
7 occupational therapy, physical therapy, psychological services, counseling, nursing services, and
8 medical services.

9 **40.1-21-11. References to director or assistant director of social welfare.**

10 Whenever, in any general or special law, reference is or shall be made to the director of
11 social welfare or the assistant director of social welfare for curative services pertaining to the
12 Doctor Joseph H. Ladd Center, programs, and services for people ~~who are mentally retarded~~ with
13 intellectual or developmental disabilities, the reference shall mean, and be construed to mean, the
14 director of behavioral healthcare, developmental disabilities and hospitals.

15 SECTION 10. Sections 40.1-22-3 and 40.1-22-9 of the General Laws in Chapter 40.1-22
16 entitled "Developmental Disabilities" are hereby amended to read as follows:

17 **40.1-22-3. Definitions.**

18 Whenever used in this chapter, or in any order, rule, or regulation made or promulgated
19 pursuant to this chapter, or in the printed forms prepared by the director, unless otherwise expressly
20 stated, or unless the context or subject matter otherwise requires:

21 (1) “Client” means any developmentally disabled adult who is in potential need of, or is
22 receiving, services aimed at alleviating his or her condition of functional dependence.

23 (2) “Department” means the department of behavioral healthcare, developmental
24 disabilities and hospitals.

25 (3) “Development, education, rehabilitation, and care” means physical development,
26 application of these abilities to meaningful occupations, development of personal and social skills,
27 all of which are directed to the objective of independent living and self-maintenance. Care also
28 includes medical care, surgical attendance, medication, as well as food, clothing, supervision, and
29 maintenance furnished to a resident.

30 (4) “Director” means the director of the department of behavioral healthcare,
31 developmental disabilities and hospitals or his or her designees.

32 (5) “Facility” means any public or private facility, inpatient rehabilitation center, hospital,
33 institution, or other domiciliary facility, the office of developmental disabilities or any part thereof,
34 equipped to habilitate, on a residential basis, persons who are intellectually or developmentally

1 disabled and in need of residential care. This shall include any facility maintaining adequate staff
2 and facilities within the state providing in-residence supervision and habilitation and approved by
3 the director upon application of the facility. Included within this definition shall be all institutions
4 and facilities under the control and direction of the director. Nothing contained herein shall be
5 construed to amend or repeal any of the provisions of chapters 17 or 17.4 of title 23, or of chapter
6 15 of title 40, or of chapter 21 of this title or of chapter 72.1 of title 42. Whenever it shall be brought
7 to the attention of the director that any private facility may not have adequate staff, or facilities as
8 determined by regulations of the director, then the facility shall not be approved for the placement
9 of ~~developmentally disabled~~ adults with intellectual or developmental disabilities under the
10 provisions of this chapter.

11 (6) "Notice" means written notice in as simple and non-technical language as practicable
12 as required by the department, or the court of competent jurisdiction. The notice shall be in writing
13 to the director of the department by registered or certified mail, return receipt required. Notice sent
14 to a client shall also include verbal reading of the written notice by duly authorized agents of the
15 department, and/or court. The agents shall make verified return of the oral notification as well as
16 the written. This requirement of oral notice to anyone alleged to be intellectually or
17 ~~developmentally disabled~~ shall be required because of the recognized limitation that many ~~retarded~~
18 ~~and developmentally disabled~~ persons with intellectual or developmental disabilities are unable to
19 comprehend written notices.

20 (7) "Objection." If an objection is raised it shall be in writing, of a timely nature, and filed
21 with the clerk of the family or district court, a copy of which is to be sent to the director of the
22 department via registered or certified mail, return receipt requested.

23 (8) "Parent" means the natural, adoptive, foster parent or caretaker of the child.

24 (9) "Qualified intellectual disability professional (QIDP)" means a person as defined in 42
25 C.F.R. 483.430, as amended.

26 (10) "Team" means an interdisciplinary team which includes such professional personnel
27 designated by the director and which shall consist of no less than three (3) persons selected by order
28 of the director, no less than one of whom shall be a licensed physician, no less than one of whom
29 shall be a member of the social work profession, and no less than one of whom shall be a qualified
30 intellectual disability professional (QIDP).

31 **40.1-22-9. Admission upon application of director, relative, or guardian.**

32 (a)(1) Upon the application of the director of the department of behavioral healthcare,
33 developmental disabilities and hospitals or his or her designee, or of any relative, next of kin, or
34 legally designated guardian of a person alleged to be developmentally disabled, and in need of

1 immediate care and treatment, the superintendent or other official in charge of any facility may
2 receive the person; provided the application is accompanied by the certificate of one examining
3 physician; provided further, that the person alleged to be intellectually or developmentally disabled
4 does not object to admission, or that parents, guardian, spouse, or next of kin do not object if under
5 eighteen (18); and provided further, that the need for residential care shall be confirmed by the
6 facility by a team examination within twenty (20) days of admission.

7 (2) If objection is raised, by the person, or by the parent, guardian, spouse, or next of kin,
8 then the matter shall be heard as provided in § 40.1-22-10, so far as possible.

9 (b) If upon examination at the facility by a team the need of the client for residential care
10 and treatment is not confirmed, the client shall be discharged.

11 (c) If upon examination by a team at the facility the need of the client for residential care
12 and treatment is confirmed and the client agrees to remain in the facility as a voluntary client, then
13 he or she shall be considered a voluntary client as of the date of his or her so agreeing.

14 (d) If upon examination at the facility the need of the client for residential care and
15 treatment is confirmed and the client, if over eighteen (18), declines or refuses to remain in the
16 facility as a voluntary client, then the certificate of a team supporting the application shall be filed
17 with the facility. The team may be on the staff of any facility as herein defined, but persons on this
18 team shall have no interest, directly or indirectly, in the assets or estate of the person ~~who is~~
19 ~~mentally-retarded~~ with intellectual or developmental disabilities, nor shall they be related to the
20 person by blood or marriage. The examination and certification shall be made no later than ten (10)
21 days from the date of the confirmation of the client's need for hospitalization, care, and treatment
22 at the facility.

23 (e) From the time of his or her admission under the previous subsection, the retention of
24 the person for residential care and treatment shall be subject to the provisions for notice, hearing,
25 review, and judicial approval of continued retention or transfer and continued retention as provided
26 in this chapter. For the purposes of subsections (d) and (e) of this section, the date of admission of
27 the client shall be deemed to be the date of the second examination and certification.

28 (f) Failure to obtain the second certificate as required within the period specified shall result
29 in the discharge of client no later than twenty (20) days after his or her original admission to the
30 facility under the provisions of this chapter.

31 SECTION 11. Section 40.1-24.5-1 of the General Laws in Chapter 40.1-24.5 entitled
32 "Community Residences" is hereby amended to read as follows:

33 **40.1-24.5-1. Definitions.**

34 Whenever used in this chapter, or in any order, rule, or regulation made or promulgated

1 pursuant to this chapter or in any printed forms prepared by the department of behavioral healthcare,
2 developmental disabilities and hospitals in furtherance of this chapter, unless otherwise expressly
3 stated, or unless the context or subject matter otherwise requires:

4 (1) "Community residence" means a place, such as a group home, however named, licensed
5 pursuant to chapter 24 of this title for the purpose of providing rehabilitation, psychological
6 support, skills training, social guidance, and living accommodations to individuals who are
7 mentally disabled, as defined by § 40.1-5-2; provided, however, that this definition shall not be
8 deemed to include places, however named, for persons ~~who are mentally retarded~~ with intellectual
9 or developmental disabilities, alcoholics, or drug abusers or persons with substance use disorders.

10 (2) "Director" means the head or the chief administrative officer of the community
11 residence, or his or her designee.

12 (3) "Grievance procedure" means the formalized process mandated by § 40.1-24.5-8 to
13 enable residents to register alleged violations of the resident's rights assured by §§ 40.1-24.5-5 and
14 40.1-24.5-6.

15 (4) "Individualized service plan" means the document that sets forth specific services, such
16 as vocational, social, medical, psychiatric, and rehabilitative, that are structured to accomplish and
17 express short- and long-term goals and objectives responsive to the individual needs of the resident.

18 (5) "Mental health advocate" means and refers to the individual appointed by the governor
19 with the advice and consent of the senate in accordance with § 40.1-5-14 and to his or her duly
20 appointed assistants.

21 (6) "Person" means any individual, partnership, corporation, company, or association and
22 the legal successors in interest thereof.

23 (7) "Resident" means an individual of lawful age admitted to a community residence.

24 SECTION 12. This act shall take effect upon passage.

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LC001634/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES -- STATUTES AND
STATUTORY CONSTRUCTION

1 This act would incorporate the use of appropriate disability language, by replacing the
2 terms "developmental disability" or "developmental disabilities" or "mentally retarded" or
3 "retarded" or "alcoholics" or "drug abusers" as used in the general laws, with the words,
4 "intellectual or developmental disability" or "person with an intellectual or developmental
5 disability, or persons with substance use disorders."

6 This act would take effect upon passage.

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LC001634/SUB A/3
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