

2023 -- H 5755

LC001634

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION -- CHILDREN WITH
DISABILITIES

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.**

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

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

13 Each city and town which contains fewer than eight (8) ~~mentally retarded~~ minors with
14 intellectual and/or developmental disabilities may contract with another city or town for the
15 education of the minors or may establish a special class pursuant to the previous provision with the
16 consent of the board of regents for elementary and secondary education. In the event that a city or
17 town does not establish a class for fewer than eight (8) ~~mentally retarded~~ minors with intellectual
18 and/or developmental disabilities or contract with another city or town, then the city or town shall

1 contract with a suitable day school for instruction adapted to the mental attainments of the minors;
2 provided that the day schools shall be subject to the regulations and supervision of the state board
3 of regents for elementary and secondary education.

4 **16-24-11. ~~Transportation for retarded children.~~ Transportation for children with**
5 **intellectual and/or developmental disabilities.**

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

8 **16-24-16. Approved centers.**

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

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

15 **23-17.8-1. Definitions.**

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

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

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

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

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

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

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

33 (b) "Department" means the department of health when the incident occurs in a health care
34 facility, and the department of behavioral healthcare, developmental disabilities and hospitals when

1 the incident occurs in a community residence ~~for people who are mentally retarded or~~ persons with
2 intellectual and/or developmental disabilities.

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

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

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

- 20 (1) As punishment;
- 21 (2) For staff convenience;
- 22 (3) As a substitute for treatment or care;
- 23 (4) In conflict with a physician's order; or
- 24 (5) In quantities which inhibit effective care or treatment, or which harms or is likely to
25 harm the patient or resident.

26 (f) "Neglect" means the intentional failure to provide treatment, care, goods, and services
27 necessary to maintain the health and safety of the patient or resident, or the intentional failure to
28 carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the
29 intentional failure to report patient or resident health problems or changes in health problems or
30 changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention
31 to the physical needs of a patient or resident including, but not limited to toileting, bathing, meals,
32 and safety. No person shall be considered to be neglected for the sole reason that he or she relies
33 on or is being furnished treatment in accordance with the tenets and teachings of a well-recognized
34 church or denomination by a duly-accredited practitioner of a well-recognized church or

1 denomination.

2 (g) “Patient” means any person who is admitted to a facility for treatment or care, while
3 “resident” means any person who maintains their residence or domicile, on either a temporary or
4 permanent basis, in a facility.

5 (h) “Person” means any natural person, corporation, partnership, unincorporated
6 association, or other business entity.

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

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

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

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

26 **23-17.8-3.1. Physician’s, certified registered nurse practitioner’s and physician**
27 **assistant’s report of examination — Duty of facility.**

28 Whenever a facility shall receive a report by a person other than a physician or a certified
29 registered nurse practitioner or physician assistant that a patient or resident of the facility has been
30 harmed as a result of abuse, neglect, or mistreatment, the facility shall have the patient examined
31 by a licensed physician or a certified registered nurse practitioner or physician assistant. It shall be
32 mandatory for the physician or certified registered nurse practitioner or physician assistant to make
33 a preliminary report of his or her findings to the department of health for a healthcare facility, or to
34 the department of behavioral healthcare, developmental disabilities and hospitals for a community

1 residence for people who are ~~mentally-retarded~~ or persons with intellectual and/or developmental
2 disabilities and to the facility within forty-eight (48) hours after his or her examination, and a
3 written report within five (5) days after his or her examination.

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

6 **23-74-4. Prohibited conduct.**

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

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

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

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

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

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

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

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

31 (8) Revealing a communication from, or relating to, an unlicensed health care client except
32 when otherwise required or permitted by law.

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

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

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

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

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

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

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

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

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

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

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

25 **31-6-6. Vehicles exempt from fees.**

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

- 28 (1) American Legion bloodmobile;
- 29 (2) American National Red Cross or any of its chapters within this state;
- 30 (3) American Red Cross, Jamestown chapter ambulance;
- 31 (4) American Red Cross, Tiverton chapter ambulance;
- 32 (5) American Red Cross, Warwick chapter ambulances;
- 33 (6) Animal Rescue League of Southern Rhode Island truck used for rescue work;
- 34 (7) Burrillville Ambulance Corps ambulance;

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

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

1 (53) Westerly Ambulance Corps ambulances.

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

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

6 **33-5-4. Nomination of guardian by will.**

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

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

16 **34-4-25. Invalidity of certain restrictive covenants.**

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

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

27 ~~CHAPTER 40.1-8~~

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

29 ~~**40.1-8-1. Creation — Members.**~~

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

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

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

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

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

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

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

11 ~~**40.1-8-2. Terms of appointment.**~~

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

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

21 ~~**40.1-8-3. Appointment of officers and employees — Rules — Meetings.**~~

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

31 ~~(b) The committee may appoint such other personnel as may be necessary for the efficient~~
32 ~~performance of the duties prescribed by this chapter.~~

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

1 ~~members.~~

2 ~~**40.1-8-4. Compensation and expenses of committee.**~~

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

6 ~~**40.1-8-5. Purpose of committee.**~~

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

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

22 ~~**40.1-8-6. Authority to receive gifts.**~~

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

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

28 ~~**40.1-24.5-1. Definitions.**~~

29 Whenever used in this chapter, or in any order, rule, or regulation made or promulgated
30 pursuant to this chapter or in any printed forms prepared by the department of behavioral healthcare,
31 developmental disabilities and hospitals in furtherance of this chapter, unless otherwise expressly
32 stated, or unless the context or subject matter otherwise requires:

33 (1) "Community residence" means a place, such as a group home, however named, licensed
34 pursuant to chapter 24 of this title for the purpose of providing rehabilitation, psychological

1 support, skills training, social guidance, and living accommodations to individuals who are
2 mentally disabled, as defined by § 40.1-5-2; provided, however, that this definition shall not be
3 deemed to include places, however named, for persons with intellectual and/or developmental
4 disabilities, or ~~who are mentally retarded, alcoholics, or drug abusers~~ persons with substance use
5 disorders.

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

8 (3) "Grievance procedure" means the formalized process mandated by § 40.1-24.5-8 to
9 enable residents to register alleged violations of the resident's rights assured by §§ 40.1-24.5-5 and
10 40.1-24.5-6.

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

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

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

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

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

22 **40.1-21-4.3. Definitions.**

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

24 ~~(5)(1) "Developmentally disabled adult"~~ "Adult with intellectual and/or developmental
25 disabilities" means a person, eighteen (18) years old or older and not under the jurisdiction of the
26 department of children, youth and families who is either ~~a mentally retarded developmentally~~
27 ~~disabled~~ an adult with intellectual and/or developmental disabilities or is a person with a severe,
28 chronic disability that:

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

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

32 (iii) Is likely to continue indefinitely;

33 (iv) Results in substantial functional limitations in three (3) or more of the following areas
34 of major life activity:

- 1 (A) Self care;
- 2 (B) Receptive and expressive language;
- 3 (C) Learning;
- 4 (D) Mobility;
- 5 (E) Self-direction;
- 6 (F) Capacity for independent living;
- 7 (G) Economic self-sufficiency; and

8 (v) Reflects the person’s need for a combination and sequence of special, interdisciplinary,
9 or generic care, treatment, or other services that are of lifelong or extended duration and are
10 individually planned and coordinated. For purposes of funding, it is understood that students
11 enrolled in school will continue to receive education from their local education authority in
12 accordance with § 16-24-1 et seq.

13 ~~(1)~~(2) “Ancillary services” means those services provided, and shall include, but not be
14 limited to, transportation, housing, housing adaptation, personal attendant care, and homemaker
15 services.

16 ~~(2)~~(3) “Case management” means the implementation of an individual’s program by
17 providing information, by referral to appropriate service providers, by procurement of services, and
18 by the coordination of the necessary services.

19 ~~(3)~~(4) “Department” means the Rhode Island department of behavioral healthcare,
20 developmental disabilities and hospitals.

21 ~~(4)~~(5) “Developmental services” means those services provided to developmentally
22 disabled adults, and shall include, but not be limited to, habilitation and rehabilitation services, and
23 day services.

24 (6) “Diagnosis and evaluation” means a process to determine whether and to what extent
25 an individual is intellectually and/or developmentally disabled and a study of the individual’s
26 condition, situation, and needs that lead to a recommendation of what services, if any, would benefit
27 the individual.

28 (7) “Individualized program plan” or “general service plan” means a plan, however named,
29 that includes, but shall not be limited to, the following:

- 30 (i) An evaluation of the strengths, difficulties, needs, and goals of the individual;
- 31 (ii) A description of those services found to be necessary or appropriate to assist the
32 individual in realizing his or her potential for self-sufficiency in major life activities;
- 33 (iii) A description of the agencies and/or individuals, who or that are proposed to provide
34 each of the recommended services;

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

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

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

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

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

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

15 ~~(8) "Mentally retarded developmentally disabled adult" means a person eighteen (18) years~~
16 ~~old or older and not under the jurisdiction of the department of children, youth and families, with~~
17 ~~significant sub average, general intellectual functioning two (2) standard deviations below the~~
18 ~~norm, existing concurrently with deficits in adaptive behavior and manifested during the~~
19 ~~developmental period. For purposes of funding, it is understood that students enrolled in school~~
20 ~~will continue to receive education from their local education authority in accordance with § 16-~~
21 ~~24-1 et seq.~~

22 ~~(9)~~(8) "Service broker" means that individual who assists in facilitating the connection
23 between the ~~developmentally disabled~~ person with intellectual and/or developmental disabilities
24 and the services required by the individual program plan.

25 ~~(10)~~(9) "Subsidized access to service" means the provisions of financial resources through
26 vouchers to a ~~developmentally disabled~~ person with intellectual and/or developmental disabilities
27 to enable the person to gain access to appropriate generic and/or special services as required by the
28 individual program plan.

29 ~~(11)~~(10) "Supportive services" means those services provided to ~~developmentally disabled~~
30 adults with intellectual and/or developmental disabilities, and shall include, but not be limited to,
31 occupational therapy, physical therapy, psychological services, counseling, nursing services, and
32 medical services.

33 **40.1-21-11. References to director or assistant director of social welfare.**

34 Whenever, in any general or special law, reference is or shall be made to the director of

1 social welfare or the assistant director of social welfare for curative services pertaining to the
2 Doctor Joseph H. Ladd Center, programs, and services for people ~~who are mentally retarded~~ [with](#)
3 [intellectual and/or developmental disabilities](#), the reference shall mean, and be construed to mean,
4 the director of behavioral healthcare, developmental disabilities and hospitals.

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

7 **40.1-22-3. Definitions.**

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

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

13 (2) "Department" means the department of behavioral healthcare, developmental
14 disabilities and hospitals.

15 (3) "Development, education, rehabilitation, and care" means physical development,
16 application of these abilities to meaningful occupations, development of personal and social skills,
17 all of which are directed to the objective of independent living and self-maintenance. Care also
18 includes medical care, surgical attendance, medication, as well as food, clothing, supervision, and
19 maintenance furnished to a resident.

20 (4) "Director" means the director of the department of behavioral healthcare,
21 developmental disabilities and hospitals or his or her designees.

22 (5) "Facility" means any public or private facility, inpatient rehabilitation center, hospital,
23 institution, or other domiciliary facility, the office of developmental disabilities or any part thereof,
24 equipped to habilitate, on a residential basis, persons who are [intellectually and/or](#) developmentally
25 disabled and in need of residential care. This shall include any facility maintaining adequate staff
26 and facilities within the state providing in-residence supervision and habilitation and approved by
27 the director upon application of the facility. Included within this definition shall be all institutions
28 and facilities under the control and direction of the director. Nothing contained herein shall be
29 construed to amend or repeal any of the provisions of chapters 17 or 17.4 of title 23, or of chapter
30 15 of title 40, or of chapter 21 of this title or of chapter 72.1 of title 42. Whenever it shall be brought
31 to the attention of the director that any private facility may not have adequate staff, or facilities as
32 determined by regulations of the director, then the facility shall not be approved for the placement
33 of ~~developmentally disabled~~ adults [with intellectual and/or developmental disabilities](#) under the
34 provisions of this chapter.

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

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

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

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

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

21 **40.1-22-9. Admission upon application of director, relative, or guardian.**

22 (a)(1) Upon the application of the director of the department of behavioral healthcare,
23 developmental disabilities and hospitals or his or her designee, or of any relative, next of kin, or
24 legally designated guardian of a person alleged to be developmentally disabled, and in need of
25 immediate care and treatment, the superintendent or other official in charge of any facility may
26 receive the person; provided the application is accompanied by the certificate of one examining
27 physician; provided further, that the person alleged to be intellectually and/or developmentally
28 disabled does not object to admission, or that parents, guardian, spouse, or next of kin do not object
29 if under eighteen (18); and provided further, that the need for residential care shall be confirmed
30 by the facility by a team examination within twenty (20) days of admission.

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

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

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

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

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

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

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

23 **40.1-24.5-1. Definitions.**

24 Whenever used in this chapter, or in any order, rule, or regulation made or promulgated
25 pursuant to this chapter or in any printed forms prepared by the department of behavioral healthcare,
26 developmental disabilities and hospitals in furtherance of this chapter, unless otherwise expressly
27 stated, or unless the context or subject matter otherwise requires:

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

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

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

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

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

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION -- CHILDREN WITH
DISABILITIES

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 and/or developmental disability" or "person with an intellectual and/or developmental
5 disability, or persons with substance use disorders."

6 This act would take effect upon passage.

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