

2012 -- H 7879

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO DOMESTIC RELATIONS - ADOPTION OF CHILDREN

Introduced By: Representative Donald J. Lally

Date Introduced: March 01, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-7-6 and 15-7-7 of the General Laws in Chapter 15-7 entitled
2 "Adoption of Children" are hereby amended to read as follows:

3 **15-7-6. Waiver of parents' right to consent -- Guardianship of agency. --** Any duly
4 licensed child placement agency in this state, or governmental child placement agency, at the
5 request of the natural parent or parents of a child under eighteen (18) years of age, may, not
6 sooner than fifteen (15) days after the birth of the child, petition the family court for the
7 termination of the rights of the natural parents of the child to consent to its adoption. After any
8 notice to the natural parents that the court deems proper, a hearing shall be had prior to the
9 hearing on the petition for adoption in the family court, and if the family court finds after
10 examination of the parent or parents that the parent or parents freely join in the petition, and that
11 the granting of the petition is for the best interests of the child, it shall decree that in the hearing
12 on the adoption of the child the consent of the natural parents as provided above shall be
13 unnecessary and that the agency shall be the sole party to give or withhold consent. The granting
14 of the petition to give or withhold consent to the child placement agency shall also make the
15 agency the guardian of the child for all purposes.

16 In the event that the birth mother's rights or the birth father's rights to consent to the
17 adoption of the minor child is terminated pursuant to this section and the other parent of the
18 minor child is unknown or, if known, has not joined in the petition, then the court shall proceed to
19 consider the termination of the other parent's right to consent to the adoption of the minor child

1 [pursuant to R.I.G.L. paragraph 15-7-7\(4\)\(ii\).](#)

2 **15-7-7. Termination of parental rights.** -- (a) The court shall, upon a petition duly filed
3 by a governmental child placement agency or licensed child placement agency after notice to the
4 parent and a hearing on the petition, terminate any and all legal rights of the parent to the child,
5 including the right to notice of any subsequent adoption proceedings involving the child, if the
6 court finds as a fact by clear and convincing evidence that:

7 (1) The parent has willfully neglected to provide proper care and maintenance for the
8 child for a period of at least one year where financially able to do so. In determining whether the
9 parent has willfully neglected to provide proper care and maintenance for the child, the court may
10 disregard contributions to support which are of an infrequent and insubstantial nature; or

11 (2) The parent is unfit by reason of conduct or conditions seriously detrimental to the
12 child; such as, but not limited to, the following:

13 (i) Institutionalization of the parent, including imprisonment, for a duration as to render
14 it improbable for the parent to care for the child for an extended period of time;

15 (ii) Conduct toward any child of a cruel or abusive nature;

16 (iii) The child has been placed in the legal custody or care of the department for children,
17 youth, and families and the parent has a chronic substance abuse problem and the parent's
18 prognosis indicates that the child will not be able to return to the custody of the parent within a
19 reasonable period of time, considering the child's age and the need for a permanent home. The
20 fact that a parent has been unable to provide care for a child for a period of twelve (12) months
21 due to substance abuse shall constitute prima facie evidence of a chronic substance abuse
22 problem;

23 (iv) The child has been placed with the department for children, youth, and families and
24 the court has previously involuntarily terminated parental rights to another child of the parent and
25 the parent continues to lack the ability or willingness to respond to services which would
26 rehabilitate the parent and provided further that the court finds it is improbable that an additional
27 period of services would result in reunification within a reasonable period of time considering the
28 child's age and the need for a permanent home;

29 (v) The parent has subjected the child to aggravated circumstances, which circumstances
30 shall be abandonment, torture, chronic abuse and sexual abuse;

31 (vi) The parent has committed murder or voluntary manslaughter on another of his or her
32 children or has committed a felony assault resulting in serious bodily injury on that child or
33 another of his or her children or has aided or abetted, attempted, conspired or solicited to commit
34 such a murder or voluntary manslaughter; or

1 (vii) The parent has exhibited behavior or conduct that is seriously detrimental to the
2 child, for a duration as to render it improbable for the parent to care for the child for an extended
3 period of time;

4 (3) The child has been placed in the legal custody or care of the department for children,
5 youth, and families for at least twelve (12) months, and the parents were offered or received
6 services to correct the situation which led to the child being placed; provided, that there is not a
7 substantial probability that the child will be able to return safely to the parents' care within a
8 reasonable period of time considering the child's age and the need for a permanent home; or

9 (4) (i) The parent has abandoned or deserted the child. A lack of communication or
10 contact with the child for at least a six (6) month period shall constitute prima facie evidence of
11 abandonment or desertion. In the event that parents of an infant have had no contact or
12 communication with the infant for a period of six (6) months the department shall file a petition
13 pursuant to this section and the family court shall conduct expedited hearings on the petition.

14 (ii) In the event that the birth mother's or birth father's right to consent to the adoption of
15 the minor child has been voluntarily terminated pursuant to R.I.G.L. section 15-7-6 (hereinafter
16 the consenting parent) and the other parent (hereinafter the non-consenting parent) has not joined
17 in the petition, the non-consenting parent has abandoned or deserted the child. A lack of
18 communication or contact with the child by a non-consenting parent for at least a two (2) month
19 period shall constitute prima facie evidence of abandonment or desertion by the non-consenting
20 parent. In the event that the non-consenting parent of an infant has had no contact or
21 communication with the infant for a period of two (2) months, the department or the licensed
22 child placement agency shall file a petition pursuant to this section and the family court shall
23 conduct expedited hearings on the petition.

24 (b) (1) In the event that the petition is filed pursuant to subdivisions (a)(1), (a)(2)(i),
25 (a)(2)(iii), or (a)(2)(vii) of this section, the court shall find as a fact that, prior to the granting of
26 the petition, such parental conduct or conditions must have occurred or existed notwithstanding
27 the reasonable efforts which shall be made by the agency prior to the filing of the petition to
28 encourage and strengthen the parental relationship so that the child can safely return to the family.
29 In the event that a petition is filed pursuant to subdivisions (a)(2)(ii), (a)(2)(iv), (a)(2)(v),
30 (a)(2)(vi) or (a)(4) of this section, the department has no obligation to engage in reasonable
31 efforts to preserve and reunify a family.

32 (2) Any duty or obligation on the part of a licensed or governmental child placing agency
33 to make reasonable efforts to strengthen the parental relationship shall cease upon the filing of a
34 petition under this section. This provision shall not be construed and is not intended to limit or

1 affect in any way the parents' right to see or visit with the child during the pendency of a petition
2 under this section.

3 (3) Upon the filing of a termination of parental rights petition, the agency has an
4 affirmative duty to identify, recruit, process and approve a qualified family for adoption or other
5 permanent living arrangement for the child.

6 (c) (1) In considering the termination of rights as pursuant to subsection (a), the court
7 shall give primary consideration to the physical, psychological, mental, and intellectual needs of
8 the child insofar as that consideration is not inconsistent with other provisions of this chapter.

9 (2) The consideration shall include the following: If a child has been placed in foster
10 family care, voluntarily or involuntarily, the court shall determine whether the child has been
11 integrated into the foster family to the extent that the child's familial identity is with the foster
12 family and whether the foster family is able and willing to permanently integrate the child into the
13 foster family; provided, that in considering integrating into a foster family, the court should
14 consider:

15 (i) The length of time child has lived in a stable, satisfactory environment and the
16 desirability of maintaining that environment and continuity for the child; and

17 (ii) The reasonable preference of the child, if the court determines that the child has
18 sufficient capacity to express a reasonable preference.

19 (d) If the court finds that the parental rights of the parent should be terminated as
20 specified in subsection (a), it shall by decree duly entered, appoint some suitable person to give or
21 withhold consent in any subsequent adoption proceedings. In the case of petitions filed by
22 licensed or governmental child placement agencies, the court shall appoint the agency to be the
23 sole party to give or withhold consent to the adoption of the child and further vest the agency with
24 all rights of guardianship over the child.

25 (e) Nothing in this section shall be construed to prohibit the introduction of expert
26 testimony with respect to any illness, medical or psychological condition, trauma, incompetency,
27 addiction to drugs, or alcoholism of any parent who has exhibited behavior or conduct that is
28 seriously detrimental to a child, to assist the court in evaluating the reason for the conduct or its
29 probable duration.

30 (f) The record of the testimony of the parties adduced in any proceeding terminating
31 parental rights to a child shall be entitled to the confidentiality provided for in section 8-10-21
32 and more specifically shall not be admissible in any civil, criminal, or other proceeding in any
33 court against a person named a defendant or respondent for any purpose, except in subsequent
34 proceedings involving the same child or proceedings involving the same respondent.

1 (g) In the event any child, the parental rights to whom have been finally terminated, has
2 not been placed by the agency in the home of a person or persons with the intention of adopting
3 the child within thirty (30) days from the date of the final termination decree, the family court
4 shall review the status of the child and the agency shall file a report that documents the steps the
5 agency is taking to find an adoptive family or other permanent living arrangement for the child, to
6 place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another
7 planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a
8 minimum, this documentation shall include child specific recruitment efforts, such as the use of
9 state, regional and national adoption exchanges, including electronic exchange system.

10 SECTION 2. This act shall take effect on July 1, 2012 and shall apply to any child born
11 after July 1, 2012.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO DOMESTIC RELATIONS - ADOPTION OF CHILDREN

1 This act would provide that if a birth mother's or father's rights to consent to the adoption
2 of their child is terminated pursuant to this section and the other parent is unknown or has not
3 consented, then the court shall proceed to terminate the other parent's right to consent, and a two
4 (2) month period of no contact shall constitute evidence of abandonment or desertion.

5 This act would take effect on July 1, 2012 and shall apply to any child born after July 1,
6 2012.

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