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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RIGHT TO FREEDOM FROM  
RESTRAINT ACT

Introduced By: Senators Ottiano, Lynch, DaPonte, DiPalma, and Felag

Date Introduced: June 20, 2013

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-72.9 of the General Laws entitled "Children's Right to Freedom  
2 From Restraint Act" is hereby repealed in its entirety.

3 ~~CHAPTER 42-72.9~~

4 ~~Children's Right to Freedom From Restraint Act~~

5 ~~**42-72.9-1. Short title.**--- This chapter shall be known as the "Children's Right to Freedom  
6 from Restraint Act."~~

7 ~~**42-72.9-2. Fundamental purpose.**--- This chapter is enacted to protect and promote the  
8 right of each child who is a resident or patient in a covered facility to be free from physical or  
9 mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints  
10 (as defined in this chapter) imposed for purposes of discipline or convenience. Every child who  
11 obtains services from a covered facility has a right to be free from both physical and chemical  
12 restraints that are not medically necessary or are used as a means of coercion, discipline,  
13 convenience, or retaliation by service providers.~~

14 ~~**42-72.9-3. Definitions.**--- For the purposes of this chapter:~~

15 ~~(1) "Service provider" means any person employed or contracted by a covered facility to  
16 provide direct care, residential treatment, education, or direct supervision of children.~~

17 ~~(2) "Covered facility" means any agency, organization, or public or private entity that  
18 provides any of the following for children, regardless of the state agency under whose authority~~

1 ~~its license is established: residential treatment, including in-house educational programming; in-~~  
2 ~~patient or residential psychiatric treatment for mental illness; and group or shelter-home care~~  
3 ~~pursuant to a license granted by the department of children, youth, and families. The term~~  
4 ~~"covered facility" does not include the public school system or psychiatric hospitals, or the Rhode~~  
5 ~~Island training school for youth. The department of children, youth, and families will promulgate~~  
6 ~~policies and regulations in accordance with section 42-72.9-9 relative to the use of seclusion and~~  
7 ~~restraint at the Rhode Island training school for youth on or before January 1, 2001.~~

8 ~~(3) "Therapeutic physical restraint" means the acceptable use of a staff member's body to~~  
9 ~~immobilize or reduce the free movement of a child/youth's arms, legs, torso, or head, in order to~~  
10 ~~ensure the physical safety of a child/youth or other individual in the facility. The term does not~~  
11 ~~include: (i) briefly holding a person in order to calm or comfort the person; (ii) restraint involving~~  
12 ~~the minimum contact necessary to safely escort the person from one area to another.~~

13 ~~(4) "Mechanical restraint" means any approved mechanical restriction that immobilizes~~  
14 ~~or reduces the free movement of a child/youth's arms, legs, torso, or head in order to hold a~~  
15 ~~child/youth safely including: (i) medical devices, including, but not limited to, supports~~  
16 ~~prescribed by a health care provider to achieve proper body position or balance; (ii) helmets or~~  
17 ~~other protective gear used to protect a person from injuries due to a fall; or (iii) helmets, mitts and~~  
18 ~~similar devices used to prevent self-injury when the device is part of a documented treatment plan~~  
19 ~~and is the least restrictive means available to prevent the self-injury.~~

20 ~~(5) "Life-threatening physical restraint" means any physical restraint or hold on a child~~  
21 ~~that restricts the flow of air into a person's lungs, whether by chest compression or any other~~  
22 ~~means.~~

23 ~~(6) "Chemical restraint" means a medication used to control behavior or restrict the~~  
24 ~~patient's freedom of movement and is not a standard treatment for the child's medical or~~  
25 ~~psychiatric condition.~~

26 ~~(7) "Seclusion" means the involuntary confinement of a child/youth in a room in a~~  
27 ~~covered facility, whether alone or with staff supervision, in a manner that prevents the child/youth~~  
28 ~~from leaving. This definition does not pertain to the use of "time-out" as an acceptable form of~~  
29 ~~short-term behavioral management nor does it pertain to covered facilities where the terms of~~  
30 ~~seclusion are defined pursuant to particular judicial decrees.~~

31 ~~(8) "Time-out" means the brief separation of a child/youth from the group not to exceed~~  
32 ~~twenty (20) minutes, designed to de-escalate the child/youth. During the "Time-out," a~~  
33 ~~child/youth's freedom of movement is not restricted and the child/youth need not be directly~~  
34 ~~supervised, but must be visually monitored.~~

1           ~~**42-72.9-4. Use of restraints.**~~ (a) ~~No service provider may use a life-threatening~~  
2 ~~physical restraint on any child at any time. This section shall not be construed as limiting any~~  
3 ~~defense to a criminal prosecution for the use of deadly physical force that may be available in the~~  
4 ~~general laws.~~

5           ~~(b) After January 1, 2001, no service provider shall administer a restraint on a child~~  
6 ~~unless trained in accordance with the provisions of this chapter.~~

7           ~~(c) No service provider shall administer a physical, mechanical, or chemical restraint on~~  
8 ~~a child, unless the following conditions are met:~~

9           ~~(1) A service provider in a covered facility may impose restraints only to prevent~~  
10 ~~immediate or imminent risk of harm to the physical safety of the child, staff, or other individuals~~  
11 ~~in the facility. Restraints shall be removed at the earliest possible time that the child can commit~~  
12 ~~to safety and no longer poses a threat to himself or herself or others;~~

13           ~~(2) The use of mechanical restraints on children and youth must be administered in strict~~  
14 ~~accordance with policies developed by the service provider and is limited to those covered~~  
15 ~~facilities granted specific authority to use mechanical restraint methods by their respective state~~  
16 ~~licensing authorities after review and approval of their policies. The use of mechanical restraints~~  
17 ~~at the Rhode Island training school for youth will be governed exclusively by rules and~~  
18 ~~regulations promulgated by DCYF in accordance with section 42-72.9-9 on or before January 1,~~  
19 ~~2001;~~

20           ~~(3) A physical, mechanical, or chemical restraint may be used only when less restrictive~~  
21 ~~interventions have not succeeded in de-escalating a situation in which the child's and/or other's~~  
22 ~~safety is at risk;~~

23           ~~(4) Except in the case of an emergency, any use of restraint on a child in the school~~  
24 ~~program of a covered facility must be in accordance with the child's individual education~~  
25 ~~program;~~

26           ~~(5) Any use of restraint on a child must be in accordance with safe and appropriate~~  
27 ~~restraining techniques and be administered only by service providers that have both initial and~~  
28 ~~ongoing education and training in the proper and safe use of restraints as established by nationally~~  
29 ~~recognized training programs;~~

30           ~~(6) The use of chemical restraints on children and youth must be administered in strict~~  
31 ~~accordance with policies developed by the service provider and is limited to those covered~~  
32 ~~facilities granted specific authority to use chemical restraints by their respective state licensing~~  
33 ~~authorities after review and approval of their policies. All chemical restraints must be ordered, in~~  
34 ~~writing, by a physician and administered in accordance with the standards adopted by the joint~~

1 ~~commission on accreditation of healthcare organizations (JCAHO);~~

2 ~~-(7) The condition of the child in a restraint must be continually assessed, monitored, and~~  
3 ~~reevaluated and the restriction of patient child movement or activity by restraint must be ended at~~  
4 ~~the earliest possible time, considering the physical safety of the child being restrained and other~~  
5 ~~individuals in the facility. For the purposes of this section, "monitor" means (i) direct observation,~~  
6 ~~or (ii) observation by way of video monitoring within physical proximity sufficient to provide aid~~  
7 ~~as may be needed;~~

8 ~~-(8) Restraints may not be written as a standing order or on "as needed" (PRN) basis; and~~

9 ~~-(9) All restraints must be recorded by the individuals administering the restraints and~~  
10 ~~reviewed by supervisory personnel as soon as practicable but no later than forty eight (48) hours~~  
11 ~~after the restraint was administered.~~

12 ~~**42-72.9-5. Seclusion.** (a) No service provider may cause the involuntary placement of~~  
13 ~~a child in seclusion except as an emergency intervention to prevent immediate or imminent risk~~  
14 ~~of injury to the physical safety of the child, staff, or other individuals in the facility and may not~~  
15 ~~be used for discipline, convenience or as a substitute for a less restrictive alternative. The~~  
16 ~~following requirements must be observed for any child placed in seclusion:~~

17 ~~-(1) The condition of the child in seclusion must be continually assessed, monitored, and~~  
18 ~~reevaluated and the seclusion must be ended at the earliest possible time, considering the physical~~  
19 ~~safety of the child being secluded and other individuals in the facility. For the purposes of this~~  
20 ~~section, "monitor" means (i) direct observation, or (ii) observation by way of video monitoring~~  
21 ~~within physical proximity sufficient to provide aid as may be needed; and~~

22 ~~-(2) The simultaneous use of seclusion and mechanical or chemical restraint is prohibited.~~

23 ~~-(b) Nothing in this section shall be construed to limit the use of "time out" as a method~~  
24 ~~of managing behavior within a covered facility.~~

25 ~~**42-72.9-6. Recording.** (a) Any use of physical, mechanical, or chemical restraint or~~  
26 ~~seclusion on a child must be documented in the child's medical, educational, treatment or case~~  
27 ~~record maintained by the covered facility. The documentation shall include:~~

28 ~~-(1) In the case of emergency use, the nature of the emergency and what other steps,~~  
29 ~~including attempts at verbal de-escalation, were taken to prevent the emergency from arising if~~  
30 ~~there were indications that such an emergency was likely to arise; and~~

31 ~~-(2) A detailed description of the nature of the restraint, its duration and its effect on the~~  
32 ~~child's established medical, educational or treatment plan.~~

33 ~~-(b) Each covered facility shall: (1) maintain a weekly log of the use of physical,~~  
34 ~~mechanical, or chemical restraint or seclusion on children in their care and the nature of the~~

1 emergency that necessitated its use, and (2) include that information in an annual compilation on  
2 its use of restraint and seclusion. The director of the state agency that has jurisdiction or  
3 supervisory control over the covered facility shall issue regulations regarding the specific content  
4 of the annual compilation and review the annual compilation prior to renewing a license for or a  
5 contract with the covered facility. The annual compilation of use of restraints and seclusion by  
6 each covered facility is a public record.

7 ~~(c) If the use of restraint or seclusion results in serious physical injury or death to the~~  
8 ~~child, the covered facility shall report the incident immediately to the department of children,~~  
9 ~~youth, and families as defined by law and to the director of the state agency that has jurisdiction~~  
10 ~~or supervisory control over the covered facility. The director shall report any incidence of serious~~  
11 ~~injury or death to the child advocate. The term "serious injury" shall be defined by DCYF in the~~  
12 ~~rules and regulations promulgated pursuant to section 42-72.9-9.~~

13 **42-72.9-7. Training and policies.** (a) Each covered facility shall:

14 ~~(1) Develop policies and procedures that establish monitoring, documentation, reporting,~~  
15 ~~and internal review of the use of restraint and seclusion on children;~~

16 ~~(2) Require training of all service providers in the use of restraint and seclusion on~~  
17 ~~children. The training shall include, but not be limited to, verbal defusing and de-escalation;~~  
18 ~~prevention strategies; types of physical restraint; the differences between life threatening physical~~  
19 ~~restraint and other varying levels of physical restraint; monitoring to prevent harm to a child~~  
20 ~~physically restrained or in seclusion; and recording and reporting procedures on the use of~~  
21 ~~restraints and seclusion; and~~

22 ~~(3) Make the policies and procedures required under subsection (a)(1) available to the~~  
23 ~~director of the state agency that has jurisdiction or supervisory control over the covered facility.~~

24 ~~(b) DCYF is responsible for ensuring compliance with initial and refresher restraint~~  
25 ~~training and for funding the training in accordance with its contract or rate provisions with~~  
26 ~~residential providers.~~

27 **42-72.9-8. Penalties.** (a) Any covered facility that does not comply with the provisions  
28 of this chapter is subject to licensing action, including, but not limited to, license revocation, by  
29 the agency or department of state government that has jurisdiction or supervisory control over the  
30 covered facility.

31 ~~(b) Any service provider who willfully and intentionally violates the provisions of this~~  
32 ~~chapter, and by reason of that violation inflicts physical injury upon a child, shall upon conviction~~  
33 ~~of the violation be fined a sum not exceeding five hundred dollars (\$500) and/or imprisoned for a~~  
34 ~~term not exceeding six (6) months. However, if the service provider is exonerated, all costs~~

1 ~~incurred in defense of these charges shall be paid by the covered facility.~~

2 ~~(c) Nothing contained in this chapter shall be construed to limit or restrict any criminal~~  
3 ~~or civil action available to an appropriate party under applicable state law.~~

4 ~~**42-72.9-9. Rules and regulations.** -- DCYF and MHRH shall promulgate rules and~~  
5 ~~regulations pursuant to the Administrative Procedures Act, title 42, chapter 35, on or before~~  
6 ~~January 1, 2001, to implement the intent of this chapter.~~

7 SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
8 GOVERNMENT" is hereby amended by adding thereto the following chapter:

9 CHAPTER 72.11

10 RIGHT TO FREEDOM FROM RESTRAINT ACT

11 **42-72.11-1. Short title.** -- This chapter shall be known and may be cited as the "Right to  
12 Freedom from Restraint Act."

13 **42-72.11-2. Fundamental purpose.** -- This chapter is enacted to protect and promote the  
14 right of each person who is served by a covered facility to be free from physical or mental abuse,  
15 corporal punishment, involuntary seclusion, and any physical or chemical restraints (as defined in  
16 this chapter).

17 **42-72.11-3. Definitions.** -- For the purposes of this chapter:

18 (1) "Service provider" means any person employed or contracted by a covered facility to  
19 provide support or care, residential support, education, or direct supervision.

20 (2) "Covered facility" means any agency, organization, or public or private entity,  
21 regardless of the state agency under whose authority its license or certification is established, that  
22 provides support or care, residential support, education, or direct supervision.

23 (3) "Physical restraint" means the use of a staff member's body to immobilize or reduce  
24 the free movement of a person's arms, legs, torso, or head, in order to ensure the physical safety  
25 of that person or other individual in the facility. The term does not include:

26 (i) Briefly holding a person in order to calm or comfort the person; or

27 (ii) A physical escort, such as the temporary touching or holding of the hand, wrist, arm,  
28 shoulder, or back for the purpose of inducing a person to walk to a safe location.

29 (4) "Mechanical restraint" means any mechanical restriction that immobilizes or reduces  
30 the free movement of a person's arms, legs, torso, or head. This term does not include:

31 (i) Medical devices, including, but not limited to, supports prescribed by a health care  
32 provider to achieve proper body position or balance;

33 (ii) Helmets or other protective gear used to protect a person from injuries due to a fall; or

34 (iii) Helmets, mitts and similar devices used to prevent self-injury when the device is part

1 of a documented treatment plan and is the least restrictive means available to prevent the self-  
2 injury.

3 (5) "Life threatening physical restraint" means any physical restraint or hold on a person  
4 that may cause death, including prone restraint or any restraint that is contraindicated by a  
5 person's physical or mental health.

6 (6) "Chemical restraint" means a medication used to control behavior or restrict the  
7 patient's freedom of movement that is not a standard treatment for the person's medical or  
8 psychiatric condition.

9 (7) "Seclusion" means the involuntary confinement in a room in a covered facility,  
10 whether alone or with staff supervision, in a manner that prevents the person from leaving. This  
11 definition does not pertain to the use of "time out" as an acceptable form of short-term behavioral  
12 management.

13 (8) "Time out" means the brief voluntary separation designed to help the person de-  
14 escalate. During the "time out," a person's freedom of movement is not restricted and the person  
15 need not be directly supervised, but must be visually monitored.

16 **42-72.11-4. Use of restraints. --** (a) No service provider may use a life-threatening  
17 physical restraint, any mechanical restraint, or any chemical restraint at any time.

18 (b) After January 1, 2014, no service provider shall administer a restraint on a person  
19 unless trained in accordance with the provisions of this chapter.

20 (c) No service provider shall administer a physical restraint on a person except to prevent  
21 imminent risk of serious physical danger to the individual or other person.

22 (d) All de-escalation techniques and less restrictive interventions available must be  
23 utilized prior to any physical restraint.

24 (e) Any use of restraint on a person must be in accordance with safe and appropriate  
25 restraining techniques and be administered only by service providers that have both initial and  
26 ongoing education and training in the proper and safe use of restraints as established in this  
27 chapter.

28 (f) The condition of the person in a restraint must be continually assessed, monitored, and  
29 reevaluated and the restriction of movement or activity by restraint must be ended at the earliest  
30 possible time, considering the physical safety of the person being restrained and other individuals.

31 For the purposes of this section, "monitor" means:

32 (1) Direct observation; or

33 (2) Observation by way of video monitoring within physical proximity sufficient to  
34 provide aid as may be needed;

1 (g) Restraints may not be written as a standing order or on "as needed" (PRN) basis, in a  
2 Behavioral Intervention Plan (BIP), or as part of any health care, treatment, or educational plan;  
3 and

4 (h) All restraints must be recorded by the individuals administering the restraints and  
5 reviewed by supervisory and medical personnel immediately. A debriefing must occur with all  
6 staff involved in the restraint, supervisory personnel, medical staff, and the individual restrained,  
7 as well as family members, guardians, advocates, and any other appropriate individuals within  
8 seventy-two (72) hours after the restraint was administered.

9 **42-72.11-5. Seclusion.** -- No service provider may cause the involuntary placement of a  
10 person in seclusion.

11 **42-72.11-6. Recording and data collection.** -- (a) Any use of restraint or seclusion on a  
12 person must be documented. This documentation must be maintained by the covered facility and  
13 shall be submitted electronically to the licensing agency within four (4) days. The following  
14 information must be included:

15 (1) The name of the person restrained;

16 (2) The name of the covered facility;

17 (3) The names of the staff participating in the restraint;

18 (4) The names of other staff present (including medical professionals);

19 (5) The date and time of the restraint;

20 (6) The length of time of the restraint;

21 (7) The location of the restraint;

22 (8) The nature of the emergency and what steps were taken to prevent the emergency  
23 from arising if there were indications that such an emergency was likely to arise;

24 (9) The attempts of de-escalation and positive behavioral supports utilized;

25 (10) When and how the family or advocate was contacted;

26 (11) Who attended the debriefing and when the debriefing occurred; and

27 (12) The outcome of the debriefing.

28 (b) If the use of restraint or seclusion results in serious physical injury or death to the  
29 person, the covered facility shall report the incident immediately to the director of the state  
30 agency that has jurisdiction or supervisory control over the covered facility. The director shall  
31 report any incidence of serious injury or death to the attorney general, and if a child, to the child  
32 advocate.

33 **42-72.11-7. Training and policies.** -- (a) Each covered facility shall:

34 (1) Develop policies and procedures that establish monitoring, documentation, reporting,



1 and internal review of the use of restraint and seclusion in accordance with this chapter;

2 (2) Require training of all service providers in the reduction/elimination of restraint and  
3 seclusion. The training shall include, but not be limited to:

4 (i) Leadership towards organizational change;

5 (ii) Use of data to inform practice;

6 (iii) Workforce development;

7 (iv) Use of prevention tools;

8 (v) Inclusion of individuals, families, and advocates; and

9 (vi) Debriefing techniques and outcomes.

10 (3) Make the policies and procedures required under subdivision (a)(1) available to the  
11 director of the state agency that has jurisdiction or supervisory control over the covered facility.

12 **42-72.11-8. Penalties. --** (a) Any covered facility that does not comply with the  
13 provisions of this chapter is subject to licensing action, including, but not limited to, license or  
14 certification revocation, by the agency or department of state government that has jurisdiction or  
15 supervisory control over the covered facility.

16 (b) Any service provider who willfully and intentionally violates the provisions of this  
17 chapter, and by reason of that violation inflicts physical injury upon a person, shall, upon  
18 conviction of the violation be fined a sum not exceeding five hundred dollars (\$500) and/or  
19 imprisoned for a term not exceeding six (6) months. However, if the service provider is  
20 exonerated, all costs incurred in defense of these charges shall be paid by the covered facility.

21 (c) Nothing contained in this chapter shall be construed to limit or restrict any criminal or  
22 civil action available to an appropriate party under applicable state law.

23 **42-72.11-9. Rules and regulations. --** The office of health and human services, the  
24 department of education, the department of children, youth, and families, the department of  
25 human services, the department of health, and the department of behavioral healthcare,  
26 developmental disabilities and hospitals shall promulgate rules and regulations pursuant to the  
27 Administrative Procedures Act, title 42, chapter 35, on or before January 1, 2014, to implement  
28 the intent of this chapter.

29 SECTION 3. Section 40.1-26-3 of the General Laws in Chapter 40.1-26 entitled "Rights  
30 for Persons with Developmental Disabilities" is hereby amended to read as follows:

31 **40.1-26-3. Participants' rights. --** In addition to any other rights provided by state or  
32 federal laws, a participant as defined in this chapter shall be entitled to the following rights:

33 (1) To be treated with dignity, respect for privacy and have the right to a safe and  
34 supportive environment;

- 1 (2) To be free from verbal and physical abuse;
- 2 (3) (i) To engage in any activity including employment, appropriate to his or her age, and  
3 interests in the most integrated community setting;
- 4 (ii) No participant shall be required to perform labor, which involves the essential  
5 operation and maintenance of the agency or the regular supervision or care of other participants.  
6 Participants may however, be requested to perform labor involving normal housekeeping and  
7 home maintenance functions if such responsibilities are documented in the participant's  
8 individualized plan;
- 9 (4) To participate in the development of his or her individualized plan and to provide  
10 informed consent to its implementation or to have an advocate provide informed consent if the  
11 participant is not competent to do so;
- 12 (5) To have access to his or her individualized plan and other medical, social, financial,  
13 vocational, psychiatric, or other information included in the file maintained by the agency;
- 14 (6) To give written informed consent prior to the imposition of any plan designed to  
15 modify behavior, including those which utilizes aversive techniques or impairs the participant's  
16 liberty or to have an advocate provide written informed consent if the participant is not competent  
17 to do so. Provided, however, that if the participant is competent to provide consent but cannot  
18 provide written consent, the agency shall accept an alternate form of consent and document in the  
19 participant's record how such consent was obtained;
- 20 (7) To register a complaint regarding an alleged violation of rights through the grievance  
21 procedure delineated in section 40.1-26-5;
- 22 ~~(8) To be free from unnecessary restraint. Restraints shall not be employed as~~  
23 ~~punishment, for the convenience of the staff, or as a substitute for an individualized plan.~~  
24 ~~Restraints shall impose the least possible restrictions consistent with their purpose and shall be~~  
25 ~~removed when the emergency ends. Restraints shall not cause physical injury to the participant~~  
26 ~~and shall be designed to allow the greatest possible comfort. Restraints shall be subject to the~~  
27 ~~following conditions:~~
- 28 ~~(i) Physical restraint shall be employed only in emergencies to protect the participant or~~  
29 ~~others from imminent injury or when prescribed by a physician, when necessary, during the~~  
30 ~~conduct of a specific medical or surgical procedure or if necessary for participant protection~~  
31 ~~during the time that a medical condition exists;~~
- 32 ~~(ii) Chemical restraint shall only be used when prescribed by a physician in extreme~~  
33 ~~emergencies in which physical restraint is not possible and the harmful effects of the emergency~~  
34 ~~clearly outweigh the potential harmful effects of the chemical restraints;~~

1 ~~(iii) No participant shall be placed in seclusion;~~  
2 ~~(iv) The agency shall have a written policy that defines the use of restraints, the staff~~  
3 ~~members who may authorize their use, and a mechanism for monitoring and controlling their use;~~  
4 ~~(v) All orders for restraint as well as the required frequency of staff observation of the~~  
5 ~~participant shall be written; [To be free from restraint in accordance with chapter 42-72.11.](#)~~

- 6 (9) To have reasonable access to telephone communication;
- 7 (10) To receive visitors of a participant's choosing at all reasonable hours;
- 8 (11) To keep and be allowed to spend a reasonable amount of one's own money;
- 9 (12) To be provided advance written notice explaining the reason(s) why the participant  
10 is no longer eligible for service from the agency;
- 11 (13) To religious freedom and practice;
- 12 (14) To communicate by sealed mail or otherwise with persons of one's choosing;
- 13 (15) To select and wear one's own clothing and to keep and use one's own personal  
14 possessions;
- 15 (16) To have reasonable, prompt access to current newspapers, magazines and radio and  
16 television programming;
- 17 (17) To have opportunities for physical exercise and outdoor recreation;
- 18 (18) (i) To provide informed consent prior to the imposition of any invasive medical  
19 treatment including any surgical procedure or to have a legal guardian, or in the absence of a legal  
20 guardian, a relative as defined in this chapter, provide informed consent if the participant is not  
21 competent to do so. Information upon which a participant shall make necessary treatment and/or  
22 surgery decisions shall be presented to the participant in a manner consistent with his or her  
23 learning style and shall include, but not be limited to:
  - 24 (A) The nature and consequences of the procedure(s);
  - 25 (B) The risks, benefits and purpose of the procedure(s); and
  - 26 (C) Alternate procedures available;
- 27 (ii) The informed consent of a participant or his or her legal guardian or, in the absence  
28 of a legal guardian, a relative as defined in this chapter, may be withdrawn at any time, with or  
29 without cause, prior to treatment. The absence of informed consent notwithstanding, a licensed  
30 and qualified physician may render emergency medical care or treatment to any participant who  
31 has been injured or who is suffering from an acute illness, disease, or condition if, within a  
32 reasonable degree of medical certainty, delay in initiation of emergency medical care or treatment  
33 would endanger the health of the participant;
- 34 (19) Each participant shall have a central record. The record shall include data pertaining

1 to admissions and such other information as may be required under regulations by the  
2 department;

3 (20) Admissions -- As part of the procedure for the admission of a participant to an  
4 agency, each participant or applicant, or advocate if the participant or applicant is not competent,  
5 shall be fully informed, orally and in writing, of all rules, regulations, and policies governing  
6 participant conduct and responsibilities, including grounds for dismissal, procedures for  
7 discharge, and all anticipated financial charges, including all costs not covered under federal  
8 and/or state programs, by other third party payors or by the agency's basic per diem rate. The  
9 written notice shall include information regarding the participant's or applicant's right to appeal  
10 the admission or dismissal decisions of the agency;

11 (21) Upon termination of services to or death of a participant, a final accounting shall be  
12 made of all personal effects and/or money belonging to the participant held by the agency. All  
13 personal effects and/or money including interest shall be promptly released to the participant or  
14 his or her heirs;

15 (22) Nothing in this chapter shall preclude intervention in the form of appropriate and  
16 reasonable restraint should it be necessary to protect individuals from physical injury to  
17 themselves or others.

18 SECTION 4. Section 42-72-15 of the General Laws in Chapter 42-72 entitled  
19 "Department of Children, Youth, and Families" is hereby amended to read as follows:

20 **42-72-15. Children's bill of rights.** -- (a) No child placed or treated under the  
21 supervision of the department in any public or private facility shall be deprived of any personal  
22 property or civil rights, except in accordance with due process.

23 (b) Each child placed or treated under the supervision of the department in any public or  
24 private facility shall receive humane and dignified treatment at all times, with full respect for the  
25 child's personal dignity and right to privacy, consistent with the child's treatment plan.

26 (c) Each child placed in a secure facility under the supervision of the department shall be  
27 permitted to communicate with any individual, group, or agency consistent with the child's  
28 treatment objectives; shall be provided writing materials and postage; and shall be permitted to  
29 make or receive telephone calls to or from his or her attorneys, guardians ad litem, special  
30 advocates, or child advocate at any reasonable time.

31 (d) The department shall adopt rules and regulations pursuant to the Administrative  
32 Procedures Act, title 42, chapter 35, regarding children placed in secure facilities to specify the  
33 following:

34 (1) ~~When a child may be placed in restraint or seclusion or when force may be used upon~~

1 ~~a child~~ [Restraint regulations in accordance with chapter 42-72.11](#);

2 (2) When the head of a facility may limit the use or receipt of mail by any child and a  
3 procedure for return of unopened mail; and

4 (3) When the head of a facility may restrict the use of a telephone by any child.

5 (e) A copy of any order placing a child at a secure facility under the supervision of the  
6 department in restraint or seclusion shall be made a part of the child's permanent clinical record.  
7 In addition, any special restriction on the use or receipt of mail or telephone calls shall be noted in  
8 writing, signed by the head of the facility or the facility head's designee, and made a part of the  
9 child's permanent clinical record.

10 (f) Each child placed or treated in a secure facility under the supervision of the  
11 department shall be permitted to receive visitors subject to reasonable restriction consistent with  
12 the child's treatment plan. The head of each facility shall establish visiting hours and inform all  
13 children and their families and other visitors of these hours. Any special restrictions shall be  
14 noted in writing, signed by the head of the facility or his or her designee, and made a part of the  
15 child's permanent clinical record.

16 (g) Each child may receive his or her clergyman, attorney, guardian ad litem, special  
17 advocate, or child advocate at any reasonable time.

18 (h) No person shall be denied employment, housing, civil service rank, any license or  
19 permit, including a professional license, or any other civil or legal right, solely because of a  
20 present or past placement with the department except as otherwise provided by statute.

21 (i) Each child under the supervision of the department shall have the right to counsel,  
22 and the right to receive visits from physicians and mental health professionals.

23 (j) Each child shall have a right to a hearing pursuant to rules and regulations  
24 promulgated by the department if the child is involuntarily transferred by the department to any  
25 facility outside of the state in accordance with the procedure set forth in section 42-72-14.

26 (k) The children's bill of rights shall be posted in a conspicuous place within any secure  
27 facility for the residential housing of children.

28 (l) Every deliverer of services with whom the department enters into a purchased  
29 services agreement shall agree, in writing, to observe and post in a conspicuous place, the  
30 children's bill of rights.

31 (m) Any child aggrieved by a violation of the children's bill of rights may petition the  
32 family court for appropriate equitable relief. The family court shall have exclusive original  
33 jurisdiction, notwithstanding any remedy contained in chapter 35 of this title.

34 (n) A child victim or witness shall be afforded the protections of section 12-28-9 under

1 the direction of the department of children, youth, and families, and the department shall advise  
2 the court and the police and the prosecutor on the capacity of the child victim to understand and  
3 participate in the investigation and in the court proceedings and of the potential effect of the  
4 proceedings on the child.

5 (o) Every child placed in the care of the department of children, youth, and families shall  
6 be entitled to a free appropriate education, in accordance with state and federal law. Immediately  
7 upon the assumption of that care, the department shall provide for the enrollment of each child in  
8 a school program. During the time that the child shall remain in that care, the department and  
9 appropriate state and local education agencies shall coordinate their efforts in order to provide for  
10 the timely initiation and continuation of educational services.

11 (p) No person shall be denied access to available treatment for an alcohol or drug related  
12 condition, solely because of a present or past placement with the department.

13 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RIGHT TO FREEDOM FROM  
RESTRAINT ACT

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1           This act would protect and promote the right of each person who is served by a covered  
2 facility, as defined in this act, to be free from physical or mental abuse, corporal punishment,  
3 involuntary seclusion, and any physical or chemical restraints.

4           This act would take effect upon passage.

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