

2017 -- H 5213

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HUMAN SERVICES - ABUSED AND NEGLECTED CHILDREN

Introduced By: Representatives Canario, Edwards, McEntee, Craven, and Bennett

Date Introduced: January 26, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-11-7.1 of the General Laws in Chapter 40-11 entitled "Abused  
2 and Neglected Children" is hereby amended to read as follows:

3 **40-11-7.1. Family court proceedings.**

4 (a) The family court shall, upon the filing of an ex parte petition, hereunder, immediately  
5 take any action it deems necessary or appropriate for the protection of the child, or children,  
6 suspected of being abused or neglected, including the removal of the child, or children, from the  
7 custody of the parent or parents, or other person suspected of the abuse or neglect.

8 (b) A hearing on the petition shall be held within seven (7) days from the filing thereof,  
9 for the court to:

10 (1) Advise the parent or parents or other person having care of the child of the allegations  
11 contained in the petition;

12 (2) Enter either a denial or admission of the allegations contained in the petition;

13 (3) Assure that a guardian ad litem and/or a court appointed special advocate has been  
14 appointed to represent the child;

15 (4) Appoint an attorney to represent the parent or parents or any other person having care  
16 of the child alleged to have abused or neglected a child when the parent or custodian is unable to  
17 afford representation, as determined by the court;

18 (5) Advise the parent or parents or any other person having care of the child of his or her  
19 right to a probable cause hearing on the ex parte petition to be held as soon as practicable but no

1 later than ten (10) days from the date of the request;

2 (6) Make inquiry of the mother of the child to determine the identity of the biological  
3 father of the child, if necessary;

4 (7) In the event that a person named as a putative father appears and denies that he is the  
5 biological father of the child, the court shall direct that any such putative father execute a written  
6 denial of paternity setting forth the implications of such denial in a form to be adopted by the  
7 family court in accordance with the provisions of this section. Execution of such a document by  
8 the putative father shall constitute prima facie evidence of his denial of paternity. Upon execution  
9 of the denial of paternity form, the court shall find that the department has no duty to make  
10 reasonable efforts to strengthen and encourage the relationship between the child and that  
11 putative father and the lack of such efforts may not be cited for any purpose by the putative father  
12 in any future proceeding conducted pursuant to the provisions of this chapter, the provisions of  
13 title 15 chapter 7 or title 15 chapter 8;

14 (8) Make any interim orders in its discretion respecting the rights of the child.

15 (c) The family court, upon identification of an alleged biological father by the mother of  
16 the child, shall order service of the petition and notice of hearing date to be made upon him in  
17 accordance with the Rules of Juvenile Proceedings.

18 (1) If an alleged putative father appears at the hearing or appears at any subsequent  
19 hearing and denies paternity, the court shall direct that any such putative father execute a written  
20 denial of paternity setting forth the implications of such denial in a form to be adopted by the  
21 family court in accordance with the provisions of this section. Execution of such a document by  
22 the putative father shall constitute prima facie evidence of his denial of paternity. Upon execution  
23 of the denial of paternity form, the court shall make a finding that the department has no duty to  
24 make reasonable efforts to strengthen and encourage the relationship between the child and that  
25 putative father and the lack of such efforts may not be cited for any purpose by the putative father  
26 in any future proceeding conducted pursuant to the provisions of this chapter, the provisions of  
27 title 15 chapter 7 or the provisions of title 15 chapter 8.

28 (2) If an alleged putative father appears and neither admits nor denies paternity, the  
29 department of children, youth, and families shall, within five (5) days, refer the putative father to  
30 the department of human services for a determination of paternity in accordance with title 15  
31 chapter 8.

32 (3) If a putative father, having been duly served with notice, fails to appear, the court  
33 shall find that the department has no duty to make reasonable efforts to strengthen and encourage  
34 the relationship between the child and the putative father and the lack of such efforts may not be

1 cited for any purpose in any future proceedings conducted pursuant to the provisions of this  
2 chapter, the provisions of title 15 chapter 7 or the provisions of title 15 chapter 8.

3 (d) Execution of a written denial of paternity pursuant to this chapter shall have no legal  
4 effect on paternity or child support proceedings commenced under title 15 chapter 8.

5 (e)(1) At the probable cause hearing credible hearsay evidence may, in the discretion of  
6 the court, be admissible. The petition may submit a signed physician's report which, while not  
7 conclusive, shall constitute prima facie evidence to support continued detention of the child  
8 pursuant to the ex parte order pending a trial on the merits.

9 (2) At any hearing for the purpose of placing a child in the custody or care of other family  
10 members to ensure the child's health, safety, or welfare, the department shall not submit any  
11 report to the court, on a non-emergency basis, which recommends as the result of a child  
12 placement investigation, a person or persons from the extended family of one parent, unless the  
13 investigation and report also included the interview and consideration of family members from  
14 both the paternal and maternal branches of the child's family. This requirement shall also apply to  
15 any award of custody rendered by the court pursuant to §40-11-12.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would exclude recommendations of the department of children, youth and  
2 families regarding the placement of an abused and neglected child with other family members  
3 unless the recommendation is based on the investigation of both the paternal and maternal  
4 branches of the child's family.

5           This act would take effect upon passage.

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