

**2019 -- S 0702 SUBSTITUTE A**

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LC001721/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2019**

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PRESERVATION OF FAMILIES  
WITH DISABLED PARENT ACT

Introduced By: Senators DiPalma, Miller, Conley, Seveney, and Euer

Date Introduced: March 21, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 72.12

4 PRESERVATION OF FAMILIES WITH DISABLED PARENT ACT

5 **42-72.12-1. Findings.**

6 The general assembly finds as follows:

7 (1) Individuals with disabilities continue to face unfair, preconceived, and unnecessary  
8 societal biases as well antiquated attitudes regarding their ability to successfully parent their  
9 children;

10 (2) Because of these societal biases and antiquated attitudes, new parents with disabilities  
11 are unnecessarily referred to hospital social workers or department of children, youth and families  
12 for evaluation of their ability to provide care or a safe environment based solely on their  
13 disability; and

14 (3) Children may unnecessarily be denied the opportunity to enjoy the experience of  
15 living in loving homes with parents with disabilities or other caretakers with disabilities.

16 **42-72.12-2. Purpose.**

17 The purpose of this chapter is to protect the best interests of children parented by  
18 individuals with disabilities, or children who could be parented by individuals with disabilities

1 through the establishment of procedural safeguards that require adherence to the Americans with  
2 Disabilities Act education of hospital, child protective services and judicial staff, and respect for  
3 the process and equal protection rights of parents with disabilities or prospective parents with  
4 disabilities in the context of child welfare, foster care, family law and adoption.

5 **42-72.12-3. Definitions.**

6 When used in this chapter:

7 (1) "Disability" means a disability as defined in § 42-87-1.

8 (2) "Supportive parenting services" means services that may assist a parent or prospective  
9 parent with a disability in the effective use of techniques, technology and other alternative  
10 methods to enable the parent or prospective parent to discharge parental responsibilities as  
11 successfully as a parent who does not have a disability.

12 **42-72.12-4. Rights of disabled parents.**

13 (a) A disability of a parent of a new born child shall not serve as the basis of referral to a  
14 hospital social worker for evaluation of parenting skills.

15 (b) A parent's disability shall not serve as the basis of a referral to the department of  
16 children, youth and families by a hospital neonatal unit.

17 (c) A parent's disability shall not serve as a basis for denial or restriction of visitation or  
18 custody in family or dependency law cases when the visitation or custody is determined to be  
19 otherwise in the best interest of the child.

20 (d) A prospective parent's disability shall not serve as a basis for their denial of  
21 participation in public or private adoption when the adoption is determined to be otherwise in the  
22 best interest of the child.

23 (e) An individual's disability shall not serve as a basis for denial of foster care or  
24 guardianship when the appointment is determined to be otherwise in the best interest of the child.

25 (f)(1) When a parent or prospective parent's disability is alleged to have a detrimental  
26 impact on a child, the party raising the allegation bears the burden of proving by clear and  
27 convincing evidence that the behaviors are endangering or will likely endanger the health, safety  
28 or welfare of the child.

29 (2) If the burden of proof is met, the parent or prospective parent with a disability shall  
30 have the opportunity to demonstrate how the implementation of supportive parenting services can  
31 alleviate any concerns that have been raised. The family court may require that the supportive  
32 parenting services be put in place, with an opportunity to review the need for continuation of such  
33 service within a reasonable period of time.

34 SECTION 2. Chapter 40-11 of the General Laws entitled "Abused and Neglected

1 Children" is hereby amended by adding thereto the following section:

2 **40-11-15.1. Parents with disabilities.**

3 The department shall investigate reports of child abuse and neglect as mandated in this  
4 chapter. A parent's disability, as defined in § 42-87-1, will not constitute sole grounds to initiate  
5 an investigation or a finding of child abuse or neglect; provided, that nothing in this section shall:

6 (1) Prevent a child from being considered abused or neglected if a child is harmed or  
7 threatened with harm as described in § 40-11-2; or

8 (2) Preclude the court from ordering the provision of supportive parenting services to  
9 address any impending or actual danger to a child.

10 SECTION 3. 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 -- PRESERVATION OF FAMILIES  
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1           This act would preclude the disability of a parent from serving as the sole basis for denial  
2 or restriction in matters involving a child's welfare, foster care, family law, guardianship and  
3 adoption. In addition, this act would prohibit an investigation of child abuse or neglect based  
4 solely on a parent's disability; unless the child is considered to be abused or neglected or  
5 threatened with harm.

6           This act would take effect upon passage.

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