

**2007 -- S 1141 SUBSTITUTE A**

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LC03442/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2007**

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A N A C T

RELATING TO FAMILY COURT -- JURISDICTION

Introduced By: Senators Alves, and Paiva-Weed

Date Introduced: June 22, 2007

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 14-1-6, 14-1-27 and 14-1-36 of the general laws in Chapter 14-1  
2 entitled "Proceedings in Family Court" are hereby amended to read as follows:  
3           **14-1-6. Retention of jurisdiction.** -- (a) When the court shall have obtained  
4 jurisdiction over any child prior to the child 's ~~eighteenth having attained the age of seventeen~~  
5 ~~years~~ birthday by the filing of a petition alleging that the child is wayward or delinquent pursuant  
6 to § 14-1-5, the child shall, except as specifically provided in this chapter, continue under the  
7 jurisdiction of the court until he or she becomes nineteen (19) years of age, unless discharged  
8 prior to turning nineteen (19). When the court shall have obtained jurisdiction over any child  
9 prior to the child's eighteenth birthday by the filing of a petition alleging that the child is  
10 dependent, neglected and abused pursuant to § 14-1-5 and 40-11-7, the child shall, except as  
11 specifically provided in this chapter, continue under the jurisdiction of the court until he or she  
12 becomes eighteen (18) years of age; provided, that prior to an order of discharge or emancipation  
13 being entered, the court shall require the department of children, youth, and families to provide a  
14 description of the transition services afforded the child in placement or a detailed explanation as  
15 to the reason those services were not offered; provided further that any youth who comes within  
16 the jurisdiction of the court by the filing of a wayward or delinquent petition prior to July 1,2007,  
17 including youth who are detained at or adjudicated and committed to the Rhode Island Training  
18 School ~~and~~ or who are placed in a temporary community placement as authorized by the family  
19 court, ~~may~~ shall continue under the jurisdiction of the court until he or she turns twenty one (21)

1 years of age unless discharged prior to turning twenty-one (21).

2 (b) In any case where the court shall not have acquired jurisdiction over any person prior  
3 to the person's eighteenth (18<sup>th</sup>) birthday by the filing of a petition alleging that the person had  
4 committed an offense prior to July 1, 2007, but a petition alleging that the person had committed  
5 an offense prior to that date which would be punishable as a felony if committed by an adult has  
6 been filed before that person attains the age of twenty-one (21) years of age, that person shall,  
7 except as specifically provided in this chapter, be subject to the jurisdiction of the court until he  
8 or she becomes twenty-one (21) years of age, unless discharged prior to turning twenty-one (21).

9 ~~(b)~~ (c) In any case where the court shall not have acquired jurisdiction over any person  
10 prior to the person's eighteenth (18<sup>th</sup>) birthday, ~~attaining the age of seventeen years~~ by the filing  
11 of a petition alleging that the person had committed an offense prior to the person's eighteenth  
12 (18<sup>th</sup>) ~~attaining the age of seventeen years~~ birthday which would be punishable as a felony if  
13 committed by an adult, that person shall be referred to the court which would have had  
14 jurisdiction over the offense if it had been committed by an adult. The court shall have  
15 jurisdiction to try that person for the offense committed prior to ~~the person attaining the age of~~  
16 ~~seventeen years~~ his or her eighteenth (18<sup>th</sup>) birthday his or her eighteenth (18<sup>th</sup>) birthday and,  
17 upon conviction, may impose a sentence not exceeding the maximum penalty provided for the  
18 conviction of that offense.

19 ~~(c) Any person who has attained the age of seventeen years or older who commits an~~  
20 ~~offense which would constitute a felony or a misdemeanor if committed by an adult prior to his or~~  
21 ~~her eighteenth birthday, that person shall be referred to the court which would have had~~  
22 ~~jurisdiction over the offense if it had been committed by an adult. The court shall have~~  
23 ~~jurisdiction to try that person for the offense committed prior to his or her eighteenth birthday~~  
24 ~~and, upon conviction, may impose a sentence not exceeding the maximum penalty provided for~~  
25 ~~the conviction of that offense.~~

26 (d) In any case where the court has certified and adjudicated a child in accordance with  
27 the provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the  
28 power and authority to sentence the child to a period in excess of the age of nineteen (19) years.  
29 However, in no case shall the sentence be in excess of the maximum penalty provided by statute  
30 for the conviction of the offense.

31 (e) Nothing in this section shall be construed to affect the jurisdiction of other courts  
32 over offenses committed by any person after he or she reaches the age of nineteen (19) years.

33 **14-1-27. Temporary detention in public or private institutions.** -- (a) Provision may  
34 be made by the court for the temporary detention of children ordered to be detained at the training

1 school for youth or in the custody of the director of the department of children, youth and  
2 families. The court may arrange for the boarding of children temporarily in private homes  
3 licensed and approved by the department of children, youth, and families and subject to the  
4 supervision of the court, or may arrange with any incorporated institution or agency licensed for  
5 child care, to receive for temporary care children ordered detained by the court. The detention  
6 shall not exceed thirty (30) days. The court, however, may extend this time for an additional  
7 period of not more than thirty (30) days if it considers it is for the best interest of the child.

8 (b) DCYF shall, in consultation with the child advocate, develop and implement a  
9 detention risk assessment instrument based on nationally accepted juvenile justice principles, not  
10 later than September 1, 2007. The instrument shall be designed to reflect input from the child's  
11 family, social workers, law enforcement personnel, the family court and DCYF staff.

12 (c) Effective on September 1, 2007, a child taken into custody for an alleged wayward or  
13 delinquent act shall not be placed in pretrial detention unless the court makes an initial  
14 determination that the child:

15 (i) poses a credible risk of harm to self or others; or

16 (ii) has demonstrated that there is a substantial risk that he or she may leave the  
17 jurisdiction of the court.

18 (d) A risk assessment instrument shall be completed on the child by the department  
19 within twenty-four (24) hours of any child's detention by the court. A judge of the family court  
20 shall, within twenty-four (24) hours of such assessment, consider the findings of the risk  
21 assessment and review the appropriateness of pretrial detention. The family court shall not  
22 approve continuing detention unless the state has proven by a preponderance of the evidence  
23 that:

24 (i) the child poses a credible risk of harm to self or others or that there is a substantial risk  
25 that he or she may leave the jurisdictions of the court; and

26 (ii) no less restrictive setting would serve as an effective alternative to pretrial detention.

27 (e) If the family court approves pretrial detention as set forth in subsection (d), that  
28 decision shall be reviewed by the court at any pretrial conference(s).

29 (f) All juveniles detailed as of September 1, 2007, shall be assessed based on the  
30 detention risk assessment instrument in subsection (b).

31 (g) Beginning on September 1, 2007, the department shall monitor the disposition of all  
32 juveniles brought before the family court prior to adjudication, and shall report monthly on the  
33 number of children detained and their length of detention, and the number of children released or  
34 serviced in community programs. The reports shall be filed by the department with the house and

1 [senate finance committees beginning October 15, 2007 through July 15, 2008.](#)

2 ~~(b)~~ (h) When DCYF makes application to the court to take a child into temporary  
3 custody due to allegations of abuse and/or neglect or dependency, DCYF shall have the duty to  
4 investigate the possibility of placing the child or children with a fit and willing relative not  
5 residing with the parents. DCYF shall conduct an assessment into the appropriateness of  
6 placement of the child or children with the relative within thirty (30) days of the child's placement  
7 in the temporary custody of DCYF. If the department determines that the relative is a fit and  
8 proper person to have placement of the child, the child shall be placed with that relative, unless  
9 the particular needs of the child make the placement contrary to the child's best interests. All  
10 placements with relatives shall be subject to criminal records checks in accordance with section  
11 14-1-34, foster care regulations promulgated by DCYF, and interstate compact approval, if  
12 necessary.

13 ~~(c)~~ (i) If DCYF proposes to place the child with a relative outside the state of Rhode  
14 Island, DCYF shall notify the parent who shall have an opportunity to file an objection to the  
15 placement with the family court within ten (10) days of receipt of the notice. A hearing shall be  
16 held before the child is placed outside the state of Rhode Island.

17 ~~(d)~~ (j) If the request of a relative for placement of a child or children is denied by DCYF,  
18 that relative shall have the right to petition the court for review. The court shall within five (5)  
19 days of the request conduct a hearing as to the suitability of temporary placement with the relative  
20 and shall make any orders incident to placement that it deems meet and just.

21 ~~(e)~~ (k) Whenever the court determines that permanent placement or adoption is in the  
22 best interest of a child, a fit and willing relative who has been awarded placement of the child  
23 shall be given priority over a non-relative, provided that the placement or adoption is in the best  
24 interest of the child.

25 **14-1-36. Commitment of delinquent and wayward children.** -- (a) In all proceedings  
26 under this chapter, the court may orders a delinquent or wayward child to be committed to an  
27 institution, the institution shall be the training school for youth for a sentence no longer than the  
28 youth's nineteenth birthday. [If it has been determined, based upon a classification risk assessment](#)  
29 [instrument, that commitment to the training school is necessary to protect the safety of the public.](#)  
30 [By September 1, 2007, the department of children, youth and families shall, in consultation with](#)  
31 [the child advocate, develop and implement a classification risk assessment instrument based on](#)  
32 [nationally accepted juvenile justice principles. The instrument shall be designed to reflect input](#)  
33 [from the child's family, social workers, law enforcement personnel, the family court and the](#)  
34 [department's staff.](#)

1           (b) Effective September 1, 2007, no child shall be committed to the training school unless  
2 it has been determined by the court, based upon the findings of the classification risk assessment,  
3 that:

4           (i) the child poses a credible risk of harm to self or others; and  
5           (ii) it has been demonstrated that no community-based diversionary programs, such as  
6 placement in an alternative supervisory setting or program provided by an agency or institution  
7 through a contract with the department, would serve as an effective alternative to commitment to  
8 the training school.

9           (c) ~~However, nothing~~ Nothing contained in this section shall be construed to prohibit the  
10 placing of any child in the custody of the department of children, youth and families or any other  
11 agency, society, or institution, pursuant to section 14-1-32. The commitment of delinquent or  
12 wayward children shall be by an order and all assignments of the custody of dependent,  
13 neglected, delinquent, or wayward children to the state training school for youth or to the custody  
14 of the department of children, youth and families or to any of the private institutions, agencies, or  
15 societies mentioned in this chapter shall be by a decree signed by the justice of the court by whom  
16 the order or decree is issued, and that order or decree shall be directed to any person that the court  
17 may designate, and shall require that person to take the child and deliver him or her to the officer  
18 in charge of the training school for youth or to the custody of the director of children, youth and  
19 families or of the public or private institution, agency, or society, and the order or decree shall  
20 constitute the person charged with it, while he or she has the order in his or her possession for  
21 service, an officer for all purposes under this chapter, in any county of the state in which it may  
22 be necessary for him or her to go. The person charged with carrying out the order or decree shall  
23 also deliver to the officer of the public or private institution, agency, or society or to the training  
24 school for youth or the director of children, youth and families a copy of the order or the decree  
25 signed by the justice of the court issuing it, and subject to the provisions of this chapter, the  
26 officer and other authorities in charge of the training school for youth or the director of children,  
27 youth and families or any public or private institution, agency, or society shall hold the child  
28 according to the terms of any other order or decree that may from time to time thereafter be  
29 issued by the court in relation to the child.

30           ~~(b)~~ (d) Whenever the court shall commit a child to the training school for youth or to the  
31 director of children, youth and families or any other institution or agency, it shall transmit with  
32 the order of commitment a summary of its information concerning the child.

33           (e) Between September 1, 2007 and November 1, 2007, the department shall reassess  
34 every child who has less than six (6) months left to serve in the training school for youth. The

1 reassessment shall be conducted using the assessment instrument as provided in subsection (a).  
2 The department shall bring before the family court those cases of said children for whom the  
3 assessment instrument determines that:

- 4 (i) the child does not pose a credible risk of harm to self or others; or
- 5 (ii) there is no substantial risk that he or she may leave the jurisdiction of the court.

6 The court may, in accordance with section 14-1-36.1, authorize the release of the child  
7 based upon the findings of the assessment instrument.

8 (f) Beginning on Septembers 1, 2007, the department shall monitor the disposition of all  
9 children brought before the family court and shall report monthly on the numbers detained,  
10 released or serviced in community programs. The report shall also contain the daily census at the  
11 training school for each day of the given month. These monthly reports shall be filed by the  
12 department with the house and senate finance committees beginning October 15, 2007 through  
13 July 15, 2008, and may be combined with the report required by subsection 14-1-27(g).

14 (g) Commencing on November 1, 2007, the training school population shall not exceed a  
15 census of one hundred fifty (150) children. Whenever the overall population of the training  
16 school for youth exceeds ninety-five percent (95%) of the population cap of one hundred fifty  
17 (150) children for thirty (30) consecutive days, or whenever the training school for youth exceeds  
18 one hundred percent (100%) of the population cap established herein for five (5) consecutive  
19 days, the department shall notify the family court and shall reassess every detainee who has less  
20 than twelve (12) months left to serve in the training school. The reassessment shall be conducted  
21 using the assessment instrument as provided in subsection (a). The department shall bring before  
22 the family court those cases of said children for whom the assessment instrument determines that:

- 23 (i) the child does not pose a credible risk of harm to self or others; or
- 24 (ii) there is no substantial risk that he or she may leave the jurisdiction of the court.

25 Notwithstanding any other provision of law, the court may, in concurrence with the findings of  
26 the assessment, place any such child in an appropriate community program or commute all or any  
27 part of the remainder of the child's sentence.

28 SECTION 2. This act shall take effect July 2, 2007.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FAMILY COURT -- JURISDICTION

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1           This act would make changes to the conditions under which family court retains  
2 jurisdiction of those reaching the age of eighteen (18).

3           This act would take effect July 2, 2007.

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