



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
 BUDGET OFFICE
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MEMORANDUM

To: The Honorable Marvin L. Abney
 Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
 Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
 Executive Director/State Budget Officer

Date: April 22, 2019

Subject: New Article 4 of the FY 2020 Appropriations Act
 (19-H-5151)

The Governor requests that Article 4 of the FY 2020 Appropriations Act, entitled "Relating to Government Reorganization", as amended on March 25, 2019, be withdrawn in its entirety and replaced with the attached version. The following are the substantive modifications contained within the new article:

(1) The new article amends several sections of the previous Article 4 that transferred the responsibility for the licensing and monitoring of child care providers from the Department of Children, Youth, and Families (DCYF) to the Department of Human Services (DHS). Specifically, the newly proposed language retains DCYF as the agency responsible for investigating complaints of abuse and neglect at a child day care facility and maintains the jurisdiction of the Rhode Island Family Court over matters involving alleged abuse and neglect at a child day care facility (or other complaints investigated by DCYF pursuant to Chapter 42-72.1). This language was added at the request of the Family Court to ensure that even though childcare licensing actions will be appealed to the Superior Court in the future, all other appeals of matters related to children, including allegations of abuse or neglect brought on childcare providers, will continue to go to the Family Court.

(2) The new article adds language to proposed new Chapter 42-12.5, entitled "Licensing and Monitoring of Child Day Care Providers", placing jurisdiction over appeals regarding child care facility licensing within the Superior Court of Providence County. Although licensing-related actions are presently referred to the Family Court (due largely to DCYF's extensive involvement with that Court), it has been determined that Superior Court is a more appropriate venue for such appeals, in accordance with current state practice surrounding appeals of departmental licensure actions.

(3) The new article reverses the transfer of the Office of Veteran's Affairs (including the Rhode Island Veterans' Home and the Rhode Island Veterans' Memorial Cemetery) and the Division of

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Affairs from DHS to the Executive Office of Health and Human Services (EOHHS). The primary rationale for rescinding this reorganization is the Executive Office's recent examination of the deleterious impact of adding these two entities to the EOHHS cost allocation plan. In consultation with Public Consulting Group, Inc., the Executive Office has determined that the addition of the Office of Veterans' Affairs and the Division of Elderly Affairs to the EOHHS "cost pool" for the allocation of indirect costs within the EOHHS cost allocation plan yields a potential loss of federal Medicaid revenue and increased exposure to general revenue expenditures. While the mechanics underlying this effect are beyond the scope of this memorandum, EOHHS estimates the potential general revenue impact as significant enough to warrant an abundance of caution in transitioning either entity to EOHHS. The Governor therefore retracts this transfer, and recommends that both divisions be maintained within the DHS budget. As such, the relevant sections of the previous Article 4 have been removed and/or modified to effect this withdrawal. Accordant modifications to Article 1 of H-5151 are forthcoming in the next set of Article 1 amendments.

(4) The new article changes the name of the Division of Elderly affairs to the "Office of Healthy Aging" and the Office of Veterans' Affairs to the "Office of Veterans Services", as these titles are more consistent with the current missions, programmatic offerings, and cultures of each entity.

If you have any questions regarding this new article, please feel free to call me at 222-6300.

TAM: 20-Amend-23

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Jonathan Womer, Director, Office of Management and Budget
Emily Eelman, Deputy Secretary, Office of Health and Human Services
Courtney Hawkins, Director, Department of Human Services
Trista Piccola, Director, Department of Children, Youth, and Families

1 **NEW ARTICLE 4**

2 **RELATING TO GOVERNMENT REORGANIZATION**

3 SECTION 1. In any General or Special Law of the State of Rhode Island, and specifically in Title
4 28, Chapters 39, 40, 42 and 43 of the General Laws of Rhode Island, 1956, as amended, reference to the
5 collection of temporary disability insurance, employment security taxes or job development fund by the
6 tax administrator and/or the division of taxation within the department of administration or the
7 department of revenue shall be construed to refer to the department of labor and training. In any reference
8 in Title 28, Chapters 39, 40, 42, and 43, any reference to the tax administrator and/or the division of
9 taxation within the department of administration or department of revenue concerning with reference to
10 the collection of revenues or any other duties shall be construed to refer to the director of the department
11 of labor and training. Any revenue collection or any other duties conferred upon the tax administrator
12 and/or division of taxation within the department of administration or the department of revenue and/or
13 by said Title 28, Chapters 39, 40, 42 and 43 shall be construed to refer to the department of labor and
14 training or the director of the department of labor and training. The tax administrator within the
15 department of revenue division of taxation and the director of the department of labor and training shall
16 be authorized to share information under Title 28, Chapter 39, 40, 42, 43 and Title 44 for purposes of tax
17 administration and shall enter into a written memorandum of understanding to facilitate tax
18 administration.

19 SECTION 2. The law revision director of the joint committee on legislative services is authorized
20 and empowered to make appropriate changes in said Title 28, Chapters 39, 40, 42 and 43 and any other
21 section of the laws to carry out the intent of this act.

22 SECTION 3. Section 30-17.1-6 of the General Laws in Chapter 30-17.1 entitled "Veterans'
23 Affairs" is hereby amended to read as follows:

24 **§ 30-17.1-6. Establishment of the office of veterans' affairs; director.**

1 (a) There is hereby established within the executive branch of government an office of veterans'
2 affairs. The director of the office of veterans' affairs shall be a person qualified through experience and
3 training and shall be an honorably discharged war veteran of the United States armed forces. The director
4 of the office of veterans' affairs shall be appointed by and report directly to the governor, but the office
5 shall reside within the department of human services for administrative purposes.

6 (b) The director of veterans' affairs shall have all such powers, consistent with law, as are
7 necessary and/or convenient to effectuate the purposes of this chapter and to administer its functions,
8 including, but, not limited to, the power to promulgate and adopt regulations. The director shall have
9 authority to apply for, receive, and administer grants and funds from the federal government and all other
10 public and private entities to accomplish the purposes of the office.

11 (c) Effective July 1, 2019, the office of veterans' affairs, as established pursuant to subsection (a)
12 of this section, shall be henceforth referred to and renamed as "the office of veterans services" and the
13 director of veterans' affairs, established pursuant to subsection (a) of this section, shall henceforth be
14 referred to and renamed as the "director of veterans services".

15 (d) Effective July 1, 2019, all references in the general laws to the office of veterans' affairs
16 established pursuant to subsection (a) of this section and to the director of veterans' affairs established
17 pursuant to subsection (a) of this section shall be deemed to mean and refer, respectively, to the office of
18 veterans services and the director of veterans services.

19 SECTION 4. Chapter 30-17.1 entitled "Veterans' Affairs" is hereby amended by adding thereto
20 the following sections:

21 **§ 30-17.1-14. Assistance on veterans claims.**

22 The office shall prepare and present before the veterans benefit administration of the United
23 States all legal claims of veterans for compensation, disability allowance, insurance, and pensions of
24 veterans of World War I, and all other veterans to whom benefits have been extended pursuant to the

1 provisions of chapter 22 of title 30, entitled "Extension of Veterans Benefits," who had a legal residence
2 in this state at the time of entrance into the service or who have been qualified electors in this state for
3 two (2) years preceding the application for aid, and their personal representatives or dependents, or both,
4 and shall render to such persons reasonable assistance in the preparation and presentation of any of those
5 claims and shall perform such other duties as may be required by law. The office shall render such
6 assistance without charge to the claimant.

7 **§ 30-17.1-15. Special veterans' funds.**

8 The director of the office shall have control and supervision over any special funds provided for
9 decorating and installing metal markers on the graves of soldiers, sailors, airmen, and marines, for the
10 burial of honorably discharged soldiers, for the assistance of World War I veterans, and other
11 expenditures relating to veteran soldiers, sailors, airmen, and marines.

12 SECTION 5. Section 30-27-1 of the General Laws in Chapter 30-27 entitled "Veterans'
13 Organizations" is hereby repealed as follows:

14 **~~§ 30-27-1. Appropriations for annual encampment of Spanish war veterans.~~**

15 ~~The general assembly shall annually appropriate such sum as it may deem necessary to defray the~~
16 ~~expenses of the annual encampment of the united spanish war veterans, department of Rhode Island, to be~~
17 ~~expended under the direction of the department of human services or of any other department as the~~
18 ~~general assembly shall indicate and direct at any future time; and the controller is hereby authorized and~~
19 ~~directed to draw orders upon the general treasurer for the payment of that sum, or so much thereof as may~~
20 ~~be necessary from time to time, upon the receipt by the controller of proper vouchers approved by the~~
21 ~~office of health and human services director of human services, or such other approving authority as the~~
22 ~~general assembly may direct.~~

23 SECTION 6. Section 31-38-7, 31-38-18 of the General Laws in Chapter 31-38 entitled
24 "Inspection of Motor Vehicles" is hereby amended to read as follows:

1 **31-38-7. Operation of official stations.**

2 (a) No permit for an official station shall be assigned or transferred or used at any location other
3 than designated in it, and the permit shall be posted in a conspicuous place at the designated location.

4 (b) The state certified person operating an official inspection station shall issue a certificate of
5 inspection and approval upon an official form to the owner of a vehicle upon inspection of the vehicle and
6 determining that its equipment required under the provisions of this chapter is in good condition and
7 proper adjustment, otherwise, no certificate shall be issued. A record and report shall be made of every
8 inspection and every certificate issued. The records shall be kept available for review by ~~the motor~~
9 ~~vehicle inspection station commission~~ or those employees of the department of revenue that the director
10 may designate.

11 (c) The following fees shall be charged for inspection and issuance of certificate of inspection and
12 approval:

13 (1) For every vehicle with a registered gross weight of not more than eight thousand five hundred
14 pounds (8,500 lbs.), the fee shall be included with the fee charged pursuant to § 31-47.1-11;

15 (2) For every vehicle of a registered gross weight of more than eight thousand five hundred
16 pounds (8,500 lbs.) or more, except trailers, fifteen dollars (\$15.00);

17 (3) For every motorcycle and electrically powered vehicle, eleven dollars (\$11.00);

18 (4) For every trailer or semi-trailer with a registered gross weight of more than one thousand
19 pounds (1,000 lbs.), eleven dollars (\$11.00); and

20 (5) Provided that for the inspection of vehicles used for the transportation of persons for hire, as
21 provided in § 31-22-12, and subject to an inspection pursuant to chapter 47.1 of this title, the fee shall be
22 included with the fee charged pursuant to § 31-47.1-11.

1 (d) The director of the department of revenue may establish a state inspection facility at which
2 any motor vehicle may be reinspected at no cost to the owner. The state inspection facility may inspect all
3 public conveyance vehicles or these inspections may be otherwise provided for by the director, or any
4 other vehicles which in the opinion of the director of revenue, or his or her designee, require specific
5 testing to ensure for the health and safety of the general public.

6 (e) Any other inspections or activities which may be required to be performed at a state inspection
7 facility may be performed at any official inspection station if determined by the director.

8 **31-38-18. Conduct of hearings. —**

9 The director of the department of revenue~~commission~~ shall hold and conduct hearings in
10 accordance with § 31-38-17. These hearings shall be governed by rules to be adopted by the director of
11 the department of revenue~~commission~~, and the director of the department of revenue~~commission~~ shall not
12 be bound by technical rules of evidence. The director of the department of revenue~~commission~~ may
13 subpoena witnesses and require the producing of documental evidence,~~and shall sit as an impartial~~
14 ~~independent body~~ in order to make decisions affecting the interest of the motor vehicle inspection owner
15 and/or operator. ~~The concurrence of a majority of the members present and voting of the commission is~~
16 ~~required for a decision.~~

17 SECTION 7. Sections 31-38-15 and 31-38-16 of the General Laws in Chapter 31-38 entitled
18 “Inspection of Motor Vehicles” are hereby repealed.

19 **~~31-38-15. Motor vehicle inspection commission. —~~**

20 (a) ~~Within the department of revenue there shall be a motor vehicle inspection commission,~~
21 ~~referred to in this chapter as the "commission", which shall function as a unit in the department. The~~
22 ~~commission shall consist of seven (7) members who shall be appointed by the governor, with the advice~~
23 ~~and consent of the senate. In making said appointments, the governor shall give due consideration to~~

1 including in the commission's membership one or more garage keeper(s) and/or inspection station
2 owner(s).

3 (b) The tenure of all members of the commission as of the effective date of this act [March 29,
4 2006] shall expire on the effective date of this act [March 29, 2006], and the governor shall nominate
5 seven (7) new members as follows:

6 (1) The governor shall appoint seven (7) members of the commission; three (3) of whom shall
7 serve initial terms of three (3) years; two (2) of whom shall serve an initial term of two (2) years; and two
8 (2) of whom shall serve an initial term of one year.

9 (2) Thereafter, all members of the commission shall be appointed to serve three (3) year terms.

10 (c) The governor shall designate one member of the commission to serve as chairperson. The
11 commission may elect from among its members such other officers as they deem necessary.

12 (d) No person shall be eligible for appointment to the commission after the effective date of this
13 act [March 29, 2006] unless he or she is a resident of this state.

14 (e) Four (4) members of the commission shall constitute a quorum.

15 (f) Members of the commission shall be removable by the governor pursuant to the provisions of
16 § 36-1-7 of the general laws and for cause only, and removal solely for partisan or personal reasons
17 unrelated to capacity of fitness for the office shall be unlawful.

18 (g) Within ninety (90) days after the end of each fiscal year, the commission shall approve and
19 submit an annual report to the governor, the speaker of the house of representatives, the president of the
20 senate, and the secretary of state of its activities during that fiscal year. The report shall provide: an
21 operating statement summarizing meetings or hearings held, including meeting minutes, subjects
22 addressed, decisions rendered, licenses considered and their disposition, rules or regulations promulgated,
23 studies conducted, policies and plans developed, approved or modified and programs administered or

1 initiated; a consolidated financial statement of all funds received and expended including the source of the
2 funds, a listing of any staff supported by these funds and a summary of any clerical, administrative or
3 technical support received; a summary of performance during the previous fiscal year including
4 accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions or other
5 legal matters related to the authority of the commission; a summary of any training courses held pursuant
6 to the provisions of this section; a briefing on anticipated activities in the upcoming fiscal year; and
7 findings and recommendations for improvements. The report shall be posted electronically on the general
8 assembly and secretary of state's websites as prescribed in § 42-20-8.2. The director of the department of
9 revenue shall be responsible for the enforcement of the provisions of this subsection.

10 (h) To conduct a training course for newly appointed and qualified members within six (6)
11 months of their qualification or designation. The course shall be developed by the chair of the
12 commission, approved by the commission, and conducted by the chair of the commission. The
13 commission may approve the use of any commission or staff members or other individuals to assist with
14 training. The training course shall include instruction in the following areas: the provisions of chapters
15 42-46, 36-14, and 38-2; and the commission's rules and regulations. The director of the department of
16 revenue shall, within ninety (90) days of the effective date of this act [March 29, 2006], prepare and
17 disseminate training material relating to the provisions of chapters 42-46, 36-14, and 38-2.

18 ~~**31-38-16. Meetings—Compensation.**~~ The commission shall meet at least once a month to
19 consider any matters that may be proper before it. The members of the commission shall receive no
20 compensation for their services, but each member shall be reimbursed for traveling or other expenses that
21 are actually incurred in the discharge of the member's duties.

22 SECTION 8. Sections 35-1.1-1 through 35-1.1-5 of the General Laws in Chapter 35-1.1 entitled
23 “Office of Management and Budget” are hereby amended to read as follows:

1 **35-1.1-1. Statement of intent.**

2 The purpose of this chapter is to establish a comprehensive public finance and management
3 system for the State of Rhode Island that manages a data-driven budget process, monitors state
4 departments' and agencies' performance, ~~maximizes the application for and use of federal grants~~ improves
5 the regulatory climate and ensures accountability and transparency regarding the use of public funds and
6 regulatory impact.

7 **35-1.1-2. Establishment of the office of management and budget.**

8 There is hereby established within the department of administration an office of management and
9 budget. This office shall serve as the principal agency of the executive branch of state government for
10 managing budgetary functions, regulatory review, performance management, internal audit, and federal
11 grants management. In this capacity, the office shall:

12 (1) Establish an in-depth form of data analysis within and between departments and agencies,
13 creating a more informed process for resource allocation to best meet the needs of Rhode Island citizens;

14 ~~(2) Identify federal grant funding opportunities to support the governor's and general assembly's~~
15 ~~major policy initiatives and provide technical assistance with the application process and post-award~~
16 ~~grants management;~~

17 (2) Analyze the impact of proposed regulations on the public and state as required by chapters 42-
18 64.13 and 42-35;

19 (3) Analyze federal budgetary issues and report on potential impacts to the state;

20 (4) Coordinate the budget functions of the state with performance management objectives;

21 (5) Maximize efficiencies in departments, agencies, advisory councils, and instrumentalities of
22 the state by improving processes and prioritizing programs;

1 (6) Be responsible for the internal audit function of state government and conduct audits of any
2 state department, state agency, or private entity that is a recipient of state funding or state grants; provide
3 management advisory and consulting services; or conduct investigations relative to the financial affairs or
4 the efficiency of management, or both, of any state department or agency.

5 **35-1.1-3. Director of management and budget – Appointment and responsibilities.**

6 (a) Within the department of administration there shall be a director of management and budget
7 who shall be appointed by the director of administration with the approval of the governor. The director
8 shall be responsible to the governor and director of administration for supervising the office of
9 management and budget and for managing and providing strategic leadership and direction to the budget
10 officer, the performance management office, and the federal grants management office.

11 (b) The director of management and budget shall be responsible to:

12 (1) Oversee, coordinate, and manage the functions of the budget officer as set forth by chapter 3
13 of this title; program performance management as set forth by § 35-3-24.1; approval of agreements with
14 federal agencies defined by § 35-3-25; and budgeting, appropriation, and receipt of federal monies as set
15 forth by chapter 41 of title 42;

16 (2) Oversee the director of regulatory reform as set forth by § 42-64.13-6;

17 ~~(2) Manage federal fiscal proposals and guidelines and serve as the state clearinghouse for the~~
18 ~~application of federal grants;~~

19 (3) Maximize the indirect cost recoveries by state agencies set forth by § 35-4-23.1; and

20 (4) Undertake a comprehensive review and inventory of all reports filed by the executive office
21 and agencies of the state with the general assembly. The inventory should include, but not be limited to:
22 the type, title, and summary of reports; the author(s) of the reports; the specific audience of the reports;
23 and a schedule of the reports' release. The inventory shall be presented to the general assembly as part of

1 the budget submission on a yearly basis. The office of management and budget shall also make
2 recommendations to consolidate, modernize the reports, and to make recommendations for elimination or
3 expansion of each report.

4 **35-1.1-4. Offices and functions assigned to the office of management and budget – Powers**
5 **and duties.**

6 (a) The offices assigned to the office of management and budget include the budget office, the
7 office of regulatory reform, the performance management office, and the office of internal audit, ~~and the~~
8 ~~federal grants management office.~~

9 (b) The offices assigned to the office of management and budget shall:

10 (1) Exercise their respective powers and duties in accordance with their statutory authority and
11 the general policy established by the governor or by the director acting on behalf of the governor or in
12 accordance with the powers and authorities conferred upon the director by this chapter;

13 (2) Provide such assistance or resources as may be requested or required by the governor and/or
14 the director;

15 (3) Provide such records and information as may be requested or required by the governor and/or
16 the director, to the extent allowed under the provisions of any applicable general or public law, regulation,
17 or agreement relating to the confidentiality, privacy, or disclosure of such records or information; and

18 (c) Except as provided herein, no provision of this chapter or application thereof shall be
19 construed to limit or otherwise restrict the budget officer from fulfilling any statutory requirement or
20 complying with any valid rule or regulation.

21 **35-1.1-5. Federal grants management.**

22 (a) ~~The office of management and budget~~ controller shall be responsible for managing federal
23 grant applications, providing administrative assistance to agencies regarding reporting requirements,

1 providing technical assistance and approving agreements with federal agencies pursuant to § 35-1-1. The
2 ~~director-controller~~ shall:

3 (1) Establish state goals and objectives for maximizing the utilization of federal aid programs;

4 (2) Ensure that the state establishes and maintains statewide federally-mandated grants
5 management processes and procedures as mandated by the federal Office of Management and Budget;

6 (3) Promulgate procedures and guidelines for all state departments, agencies, advisory councils,
7 instrumentalities of the state and public higher education institutions covering applications for federal
8 grants;

9 (4) Require, upon request, any state department, agency, advisory council, instrumentality of the
10 state or public higher education institution receiving a grant of money from the federal government to
11 submit a report to the ~~director-controller~~ of expenditures and program measures for the fiscal period in
12 question;

13 (5) Ensure state departments and agencies adhere to the requirements of § 42-41-5 regarding
14 Legislative appropriation authority and delegation thereof;

15 (6) ~~Assist the state controller in managing and overseeing~~ Manage and oversee the disbursements
16 of federal funds in accordance with § 35-6-42;

17 (7) ~~Assist the state controller in the preparation of~~ Prepare the statewide cost allocation plan and
18 serve as the monitoring agency to ensure that state departments and agencies are working within the
19 guidelines contained in the plan; and,

20 (8) Provide technical assistance to agencies to ensure resolution and closure of all single state
21 audit findings and recommendations made by the Auditor General related to Federal funding.

22 (b) ~~The office of management and budget~~ Accounts and control shall serve as the Sstate
23 ~~C~~clearinghouse for purposes of coordinating federal grants, aid and assistance applied for and/or received

1 by any state department, agency, advisory council or instrumentality of the state. Any state department,
2 agency, advisory council, or instrumentality of the state applying for federal funds, aids, loans, or grants
3 shall file a summary notification of the intended application with the ~~director~~controller.

4 (1) When as a condition to receiving federal funds, the state is required to match the federal
5 funds, a statement shall be filed with the notice of intent or summary of the application stating:

6 (i) The amount and source of state funds needed for matching purposes;

7 (ii) The length of time the matching funds shall be required;

8 (iii) The growth of the program;

9 (iv) How the program will be evaluated;

10 (v) What action will be necessary should the federal funds be canceled, curtailed, or restricted;

11 and,

12 (vi) Any other financial and program management data required by the office or by law.

13 (2) Except as otherwise required, any application submitted by an executive agency for federal
14 funds, aids, loans, or grants which will require state matching or replacement funds at the time of
15 application or at any time in the future, must be approved by the director of the office of management and
16 budget or their designated agents prior to its filing with the appropriate federal agency. Any application
17 submitted by an executive agency for federal funds, aids, loans, or grants which will require state
18 matching or replacement funds at the time of application or at any time in the future, when funds have not
19 been appropriated for that express purpose, must be approved by the General Assembly in accordance
20 with § 42-41-5. When the general assembly is not in session, the application shall be reported to and
21 reviewed by the Director pursuant to rules and regulations promulgated by the Director.

22 (3) When any federal funds, aids, loans, or grants are received by any state department, agency,
23 advisory council or instrumentality of the state, a report of the amount of funds received shall be filed

1 with the office; and this report shall specify the amount of funds which would reimburse an agency for
2 indirect costs, as provided for under federal ~~OMB Circular A-87~~requirements.

3 (4) The ~~director~~controller may refuse to issue approval for the disbursement of any state or
4 federal funds from the State Treasury as the result of any application which is not approved as provided
5 by this section, or in regard to which the statement or reports required by this section were not filed.

6 (5) The ~~director~~controller shall be responsible for the orderly administration of this section and
7 for issuing the appropriate guidelines and regulations from each source of funds used.

8 SECTION 9. Section 35-6-1 of the General Laws in Chapter 35-6 entitled "Accounts and
9 Controls" is hereby amended to read as follows:

10 **35-6-1. Controller – Duties in general.**

11 (a) Within the department of administration there shall be a controller who shall be appointed by
12 the director of administration pursuant to chapter 4 of title 36. The controller shall be responsible for
13 accounting and expenditure control and shall be required to:

14 (1) Administer a comprehensive accounting and recording system which will classify the
15 transactions of the state departments and agencies in accordance with the budget plan;

16 (2) Maintain control accounts for all supplies, materials, and equipment for all departments and
17 agencies except as otherwise provided by law;

18 (3) Prescribe a financial, accounting, and cost accounting system for state departments and
19 agencies;

20 (4) Identify federal grant funding opportunities to support the governor's and general assembly's
21 major policy initiatives and provide technical assistance with the application process and post-award
22 grants management;

1 (5) Manage federal fiscal proposals and guidelines and serve as the state clearinghouse for the
2 application of federal grants;

3 ~~(4)~~(6) Preaudit all state receipts and expenditures;

4 ~~(5)~~(7) Prepare financial statements required by the several departments and agencies, by the
5 governor, or by the general assembly;

6 ~~(6)~~ (8) Approve the orders drawn on the general treasurer; provided, that the preaudit of all
7 expenditures under authority of the legislative department and the judicial department by the state
8 controller shall be purely ministerial, concerned only with the legality of the expenditure and availability
9 of the funds, and in no event shall the state controller interpose his or her judgment regarding the wisdom
10 or expediency of any item or items of expenditure;

11 ~~(7)~~(9) Prepare and timely file, on behalf of the state, any and all reports required by the United
12 States, including, but not limited to, the internal revenue service, or required by any department or agency
13 of the state, with respect to the state payroll; and

14 ~~(8)~~(10) Prepare a preliminary closing statement for each fiscal year. The controller shall forward
15 the statement to the chairpersons of the house finance committee and the senate finance committee, with
16 copies to the house fiscal advisor and the senate fiscal and policy advisor, by September 1 following the
17 fiscal year ending the prior June 30 or thirty (30) days after enactment of the appropriations act,
18 whichever is later. The report shall include but is not limited to:

19 (i) A report of all revenues received by the state in the completed fiscal year, together with the
20 estimates adopted for that year as contained in the final enacted budget, and together with all deviations
21 between estimated revenues and actual collections. The report shall also include cash collections and
22 accrual adjustments;

1 (ii) A comparison of actual expenditures with each of the actual appropriations, including
2 supplemental appropriations and other adjustments provided for in the Rhode Island General Laws;

3 (iii) A statement of the opening and closing surplus in the general revenue account; and

4 (iv) A statement of the opening surplus, activity, and closing surplus in the state budget reserve
5 and cash stabilization account and the state bond capital fund.

6 (b) The controller shall provide supporting information on revenues, expenditures, capital
7 projects, and debt service upon request of the house finance committee chairperson, senate finance
8 committee chairperson, house fiscal advisor, or senate fiscal and policy advisor.

9 (c) Upon issuance of the audited annual financial statement, the controller shall provide a report
10 of the differences between the preliminary financial report and the final report as contained in the audited
11 annual financial statement.

12 (d) The controller shall create a special fund not part of the general fund and shall deposit
13 amounts equivalent to all deferred contributions under this act into that fund. Any amounts remaining in
14 the fund on June 15, 2010, shall be transferred to the general treasurer who shall transfer such amounts
15 into the retirement system as appropriate.

16 (e) The controller shall implement a direct deposit payroll system for state employees.

17 (i) There shall be no service charge of any type paid by the state employee at any time which
18 shall decrease the net amount of the employee's salary deposited to the financial institution of the personal
19 choice of the employee as a result of the use of direct deposit.

20 (ii) Employees hired after September 30, 2014, shall participate in the direct deposit system. At
21 the time the employee is hired, the employee shall identify a financial institution that will serve as a
22 personal depository agent for the employee.

1 (iii) No later than June 30, 2016, each employee hired before September 30, 2014, who is not a
2 participant in the direct deposit system, shall identify a financial institution that will serve as a personal
3 depository agent for the employee.

4 (iv) The controller shall promulgate rules and regulations as necessary for implementation and
5 administration of the direct deposit system, which shall include limited exceptions to required
6 participation.

7 SECTION 10. Chapter 39-3 of the General Laws entitled "Regulatory Powers of Administration"
8 is hereby amended by adding thereto the following section:

9 **39-3-45. Transfer of powers, functions and resources from the water resources board.**

10 (a) There are hereby transferred to the division of public utilities and carriers those powers and
11 duties formerly administered by the department of administration and/or the employees of the water
12 resources board as provided for in chapter 46-15 ("Water Resources Management") through 46-15.8
13 ("Water Use and Efficiency Act"), inclusive, and any other applicable provisions of the general laws.

14 (b) Unless otherwise specified by statute, all resources of the water resources board, including, but
15 not limited to, property, employees and accounts, are hereby transferred to the division of public utilities
16 and carriers effective July 1, 2019.

17 (c) As part of the above transfer, except for the general manager, all employees of the water
18 resources board currently subject to the provisions of chapter 4 of title 36 shall continue to be subject to
19 those provisions.

20 SECTION 11. Sections 42-6-1, 42-6-2, and 42-6-3 of the General Laws in Chapter 42-6 entitled
21 "Departments of State Government" is hereby amended to read as follows.

22 **§ 42-6-1. Enumeration of departments.**

23 All the administrative powers and duties heretofore vested by law in the several state departments, boards,

1 divisions, bureaus, commissions, and other agencies shall be vested in the following departments and
2 other agencies which are specified in this title:

3 (a) Executive department (chapter 7 of this title);

4 (b) Department of state (chapter 8 of this title);

5 (c) Department of the attorney general (chapter 9 of this title);

6 (d) Treasury department (chapter 10 of this title);

7 (e) Department of administration (chapter 11 of this title);

8 (f) Department of business regulation (chapter 14 of this title);

9 (g) Department of children, youth and families (chapter 72 of this title);

10 (h) Department of corrections (chapter 56 of this title);

11 ~~(i) Department of elderly affairs (chapter 66 of this title);~~

12 (j) Department of elementary and secondary education (chapter 60 of title 16);

13 (k) Department of environmental management (chapter 17.1 of this title);

14 (l) Department of health (chapter 18 of this title);

15 (m) Board of governors for higher education (chapter 59 of title 16);

16 (n) Department of labor and training (chapter 16.1 of this title);

17 (o) Department of behavioral healthcare, developmental disabilities and hospitals (chapter 12.1
18 of this title);

19 (p) Department of human services (chapter 12 of this title);

20 (q) Department of transportation (chapter 13 of this title);

21 (r) Public utilities commission (chapter 14.3 of this title);

22 (s) Department of revenue (chapter 142 of title 42);

23 (t) Department of public safety (chapter 7.3 of this title).

24 **§ 42-6-2. Heads of departments.**

25 The governor, secretary of state, attorney general, and general treasurer, hereinafter called general
26 officers, shall each be in charge of a department. There shall also be a director of administration, a

1 director of revenue, a director of public safety, a director of human services, a director of behavioral
2 healthcare, developmental disabilities and hospitals, a director of transportation, a director of business
3 regulation, a director of labor and training, a director of environmental management, a director for
4 children, youth and families, ~~a director of elderly affairs~~, and a director of corrections. Each director shall
5 hold office at the pleasure of the governor and he or she shall serve until his or her successor is duly
6 appointed and qualified unless the director is removed from office by special order of the governor.

7 **§ 42-6-3. Appointment of directors.**

8 (a) At the January session following his or her election to office, the governor shall appoint a director of
9 administration, a director of revenue, a director of public safety, a director of human services, a director
10 of behavioral healthcare, developmental disabilities and hospitals, a director of transportation, a director
11 of business regulation, a director of labor and training, a director of environmental management, a
12 director for children, youth and families, ~~a director of elderly affairs~~, and a director of corrections. The
13 governor shall, in all cases of appointment of a director while the senate is in session, notify the senate of
14 his or her appointment and the senate shall, within sixty (60) legislative days after receipt of the notice,
15 act upon the appointment. If the senate shall, within sixty (60) legislative days, vote to disapprove the
16 appointment it shall so notify the governor, who shall forthwith appoint and notify the senate of the
17 appointment of a different person as director and so on in like manner until the senate shall fail to so vote
18 disapproval of the governor's appointment. If the senate shall fail, for sixty (60) legislative days next after
19 notice, to act upon any appointment of which it has been notified by the governor, the person so appointed
20 shall be the director. The governor may withdraw any appointment of which he or she has given notice to
21 the senate, at any time within sixty (60) legislative days thereafter and before action has been taken
22 thereon by the senate.

23 (b) Except as expressly provided in § 42-6-9, no director of any department shall be appointed or
24 employed pursuant to any contract of employment for a period of time greater than the remainder of the

1 governor's current term of office. Any contract entered into in violation of this section after July 1, 1994
2 is hereby declared null and void.

3 SECTION 12. Section 42-11-10 of the General Laws in Chapter 42-11 entitled "Department of
4 Administration" is hereby amended to read as follows:

5 **42-11-10. Statewide planning program.**

6 (a) *Findings.* The general assembly finds that the people of this state have a fundamental interest
7 in the orderly development of the state; the state has a positive interest and demonstrated need for
8 establishment of a comprehensive, strategic state planning process and the preparation, maintenance, and
9 implementation of plans for the physical, economic, and social development of the state; the continued
10 growth and development of the state presents problems that cannot be met by the cities and towns
11 individually and that require effective planning by the state; and state and local plans and programs must
12 be properly coordinated with the planning requirements and programs of the federal government.

13 (b) *Establishment of statewide planning program.*

14 (1) A statewide planning program is hereby established to prepare, adopt, and amend strategic plans
15 for the physical, economic, and social development of the state and to recommend these to the governor,
16 the general assembly, and all others concerned.

17 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by all departments
18 and agencies of the executive branch unless specifically exempted, shall be conducted by or under the
19 supervision of the statewide planning program. The statewide planning program shall consist of a state
20 planning council, and the division of planning, which shall be a division within the department of
21 administration.

22 (c) *Strategic planning.* Strategic planning includes the following activities:

23 (1) Establishing or identifying general goals.

1 (2) Refining or detailing these goals and identifying relationships between them.

2 (3) Formulating, testing, and selecting policies and standards that will achieve desired objectives.

3 (4) Preparing long-range or system plans or comprehensive programs that carry out the policies and
4 set time schedules, performance measures, and targets.

5 (5) Preparing functional, short-range plans or programs that are consistent with established or
6 desired goals, objectives, and policies, and with long-range or system plans or comprehensive programs
7 where applicable, and that establish measurable, intermediate steps toward their accomplishment of the
8 goals, objectives, policies, and/or long-range system plans.

9 (6) Monitoring the planning of specific projects and designing of specific programs of short
10 duration by the operating departments, other agencies of the executive branch, and political subdivisions of
11 the state to ensure that these are consistent with, and carry out the intent of, applicable strategic plans.

12 (7) Reviewing the execution of strategic plans, and the results obtained, and making revisions
13 necessary to achieve established goals.

14 (d) *State guide plan.* Components of strategic plans prepared and adopted in accordance with this
15 section may be designated as elements of the state guide plan. The state guide plan shall be comprised of
16 functional elements or plans dealing with land use; physical development and environmental concerns;
17 economic development; housing production; energy supply, including the development of renewable
18 energy resources in Rhode Island, and energy access, use, and conservation; human services; and other
19 factors necessary to accomplish the objective of this section. The state guide plan shall be a means for
20 centralizing, integrating, and monitoring long-range goals, policies, plans, and implementation activities
21 related thereto. State agencies concerned with specific subject areas, local governments, and the public shall
22 participate in the state guide planning process, which shall be closely coordinated with the budgeting
23 process.

1 (e) *Membership of state planning council.* The state planning council shall consist of the following
2 members:

3 (1) The director of the department of administration as chairperson;

4 (2) The director, policy office, in the office of the governor, as vice-chairperson;

5 (3) The governor, or his or her designee;

6 (4) The budget officer;

7 (5) The chairperson of the housing resources commission;

8 (6) The highest-ranking administrative officer of the division of planning, as secretary;

9 (7) The president of the Rhode Island League of Cities and Towns or his or her designee and one
10 official of local government who shall be appointed by the governor from a list of not less than three (3)
11 submitted by the Rhode Island League Cities and Towns;

12 (8) The executive director of the Rhode Island League of Cities and Towns;

13 (9) One representative of a nonprofit community development or housing organization appointed
14 by the governor;

15 (10) Six (6) public members, appointed by the governor, one of whom shall be an employer with
16 fewer than fifty (50) employees and one of whom shall be an employer with greater than fifty (50)
17 employees;

18 (11) Two (2) representatives of a private, nonprofit, environmental advocacy organization, both to
19 be appointed by the governor;

20 (12) The director of planning and development for the city of Providence;

21 (13) The director of the department of transportation;

- 1 (14) The director of the department of environmental management;
- 2 (15) The director of the department of health;
- 3 (16) The chief executive officer of the commerce corporation;
- 4 (17) The commissioner of the Rhode Island office of energy resources;
- 5 (18) The chief executive officer of the Rhode Island public transit authority;
- 6 (19) The executive director of Rhode Island housing; and
- 7 (20) The executive director of the coastal resources management council.

8 (f) *Powers and duties of state planning council.* The state planning council shall have the following
9 powers and duties:

10 (1) To adopt strategic plans as defined in this section and the long-range state guide plan, and to
11 modify and amend any of these, following the procedures for notification and public hearing set forth in §
12 42-35-3, and to recommend and encourage implementation of these goals to the general assembly, state and
13 federal agencies, and other public and private bodies; approval of strategic plans by the governor; and to
14 ensure that strategic plans and the long-range state guide plan are consistent with the findings, intent, and
15 goals set forth in § 45-22.2-3, the "Rhode Island Comprehensive Planning and Land Use Regulation Act";

16 (2) To coordinate the planning and development activities of all state agencies, in accordance with
17 strategic plans prepared and adopted as provided for by this section;

18 (3) To review and comment on the proposed annual work program of the statewide planning
19 program;

20 (4) To adopt rules and standards and issue orders concerning any matters within its jurisdiction as
21 established by this section and amendments to it;

1 (5) To establish advisory committees and appoint members thereto representing diverse interests
2 and viewpoints as required in the state planning process and in the preparation or implementation of
3 strategic plans. The state planning council shall appoint a permanent committee comprised of:

4 (i) Public members from different geographic areas of the state representing diverse interests; and

5 (ii) Officials of state, local, and federal government, who shall review all proposed elements of the
6 state guide plan, or amendment or repeal of any element of the plan, and shall advise the state planning
7 council thereon before the council acts on any such proposal. This committee shall also advise the state
8 planning council on any other matter referred to it by the council; and

9 (6) To establish and appoint members to an executive committee consisting of major participants
10 of a Rhode Island geographic information system with oversight responsibility for its activities.

11 (7) To adopt, amend, and maintain, as an element of the state guide plan or as an amendment to an
12 existing element of the state guide plan, standards and guidelines for the location of eligible, renewable
13 energy resources and renewable energy facilities in Rhode Island with due consideration for the location of
14 such resources and facilities in commercial and industrial areas, agricultural areas, areas occupied by public
15 and private institutions, and property of the state and its agencies and corporations, provided such areas are
16 of sufficient size, and in other areas of the state as appropriate.

17 (8) To act as the single, statewide metropolitan planning organization for transportation planning,
18 and to promulgate all rules and regulations that are necessary thereto.

19 (g) *Division of planning.*

20 (1) The division of planning shall be the principal staff agency of the state planning council for
21 preparing and/or coordinating strategic plans for the comprehensive management of the state's human,
22 economic, and physical resources. The division of planning shall recommend to the state planning council

1 specific guidelines, standards, and programs to be adopted to implement strategic planning and the state
2 guide plan and shall undertake any other duties established by this section and amendments thereto.

3 (2) The division of planning shall maintain records (which shall consist of files of complete copies)
4 of all plans, recommendations, rules, and modifications or amendments thereto adopted or issued by the
5 state planning council under this section. The records shall be open to the public.

6 (3) The division of planning shall manage and administer the Rhode Island geographic information
7 system of land-related resources, and shall coordinate these efforts with other state departments and
8 agencies, including the University of Rhode Island, which shall provide technical support and assistance in
9 the development and maintenance of the system and its associated data base.

10 (4) The division of planning shall coordinate and oversee the provision of technical assistance to
11 political subdivisions of the state in preparing and implementing plans to accomplish the purposes, goals,
12 objectives, policies, and/or standards of applicable elements of the state guide plan and shall make available
13 to cities and towns data and guidelines that may be used in preparing comprehensive plans and elements
14 thereof and in evaluating comprehensive plans and elements thereby.

15 (h) [Deleted by P.L. 2011, ch. 215, § 4, and by P.L. 2011, ch. 313, § 4].

16 ~~(i) The division of planning shall be the principal staff agency of the water resources board
17 established pursuant to chapter 15 of title 46 ("Water Resources Board") and the water resources board
18 corporate established pursuant to chapter 15.1 of title 46 ("Water Supply Facilities").~~

19 SECTION 13. Section 42-11-10.1 of the General Laws in Chapter 42-11 entitled "Department of
20 Administration" is hereby repealed.

21 ~~**42-11-10.1. Transfer of powers, functions and resources from the water resources board.**~~

22 ~~(a) There are hereby transferred to the division of planning within the department of administration
23 those powers and duties formerly administered by the employees of the water resources board as provided~~

1 for in chapter 46-15 (“Water Resources Board”) through 46-15.8 (“Water Use and Efficiency Act”),
2 inclusive, and any other applicable provisions of the general laws; provided, however, the governor shall
3 submit to the 2012 assembly any recommended statutory changes necessary to facilitate the merger.

4 (b) ~~All resources of the water resources board, including, but not limited to, property, employees~~
5 ~~and accounts, are hereby transferred to the division of planning.~~

6 (c) ~~As part of the above transfer, except for the general manager, all employees of the water~~
7 ~~resources board currently subject to the provisions of chapter 4 of title 36 shall continue to be subject to~~
8 ~~those provisions.~~

9 SECTION 14. Sections 42-12-23 and 42-12-23.1 of the General Laws in Chapter 42-12 entitled,
10 “Department of Human Services” are hereby amended to read as follows:

11 **42-12-23. Child care – Planning and coordinating.**

12 (a) The department of human services shall be the principal agency of the state for the planning
13 and coordination of state involvement in the area of child care. To accomplish this purpose, the
14 department's duties shall include submitting an annual report to the governor and the general assembly on
15 the status of child care in Rhode Island.

16 (b) The annual report of the department shall include, but not be limited to, the following
17 information:

18 (1) The amount of state and federal funds spent on child care in each of the two (2) preceding
19 years;

20 (2) The number of child care providers licensed; ~~pursuant to the provisions of chapter 72.1 of this~~
21 ~~title;~~

22 (3) The number of children served in state subsidized programs;

1 (4) The number of taxpayers who have claimed the child care assistance and development tax
2 credit pursuant to chapter 47 of title 44;

3 (5) The average cost for both infant and preschool child care;

4 (6) An estimate of unmet needs for child care;

5 (7) Information on child care staff salaries and training and education programs, and

6 (8) Recommendations for any changes in child care public policy.

7 ~~(e) The department shall cooperate with the unit of the department of children, youth, and~~
8 ~~families which licenses and monitors child care providers pursuant to the terms of chapter 72.1 of this~~
9 ~~title.~~

10 ~~(d)~~(c) The department is hereby charged with the responsibility of assuring that a statewide child
11 care resource and referral system exists in this state to provide services and consumer information to
12 assist parents in locating and choosing licensed, approved and/or certified providers, and to maintain data
13 necessary for such referrals.

14 **42-12-23.1. Quality of early care and education and school-age child care through voluntary**
15 **quality rating system.**

16 (a) There is hereby established a voluntary quality rating system which will assess quality in early
17 care and education programs and school-age child care. For purposes of this section, early care and
18 education programs and school-age child care shall mean programs licensed under chapter 72.1, title 42
19 12.5, title 42 and approved under chapter 48, title 16, including without limitation child care centers,
20 family child care homes, group family child care homes, school-age child care programs and preschools,
21 but excluding child placement agencies. The voluntary quality rating system is established to promote
22 continuous quality improvement of programs and to further the goals of Rhode Island's "starting right"
23 initiative.

1 (b) The department of human services, the department of children, youth and families, the
2 department of health, the department of elementary and secondary education and other partners and
3 agencies shall share information and work cooperatively with the Rhode Island quality rating system, a
4 public-private partnership, to ensure that Rhode Island children have access to quality early care and
5 education programs and school-age child care.

6 (c) The voluntary quality rating system shall also provide a mechanism to gather data about
7 program quality, and shall report this information to parents, providers and other persons interested in the
8 quality of early care and education programs and school-age child care services in Rhode Island.

9 SECTION 15. Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT"
10 is hereby amended by adding thereto the following chapter:

11 CHAPTER 42-12.5

12 LICENSING AND MONITORING OF CHILD DAY CARE PROVIDERS

13 **42-12.5-1 Statement of Purpose**

14 (a) The director of the department of human services shall establish within the department a unit to
15 license and monitor child day care service providers to protect the health, safety and wellbeing of children
16 while being cared for as a commercial service and are away from their homes.

17 (b) Services for children requiring licensure under this chapter shall include all child day care providers
18 which offer services within the state, except as defined in § 42-12.5-5

19 **42-12.5-2. Definitions.**

20 As used in this chapter:

21 (1) "Administrator of licensing" means the director of the licensing unit (or his/her designee) that
22 carries out the provisions of this chapter, hereafter referred to as the "administrator".

1 (2) "Applicant" means a child day care provider-that applies for a license to operate.

2 (3) "Child" means any person less than eighteen (18) years of age;

3 (4) "Child day care" means daily care and/or supervision offered commercially to the public for
4 any part of a twenty-four (24) hour day to children away from their homes.

5 (5) "Child day care center" means any person, firm, corporation, association, or agency who, on a
6 regular or irregular basis, receives any child under the age of sixteen (16) years, for the purpose of care
7 and/or supervision, not in a home or residence, apart from the child's parent or guardian for any part of a
8 twenty-four (24) hour day irrespective of compensation. It shall include child day care programs that are
9 offered to employees at the worksite. It does not include preschool programs operating in schools
10 approved by the commissioner of elementary and secondary education.

11 (6) "Child day care provider" means a person or agency, which offers daily care and/or
12 supervision offered commercially to the public for any part of a twenty-four (24) hour day to children
13 away from their homes.

14 (7) "Department" means the department of human services (DHS).

15 (8) "Director" means the director of the department of human services, or the director's designee.

16 (9) "Family day care home" means any home other than the child's home in which child day care
17 in lieu of parental care and/or supervision is offered at the same time to four (4) or more children who are
18 not relatives of the care giver.

19 (10) "Group family day care home" means a residence occupied by an individual of at least
20 twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve (12)
21 children, with the assistance of one or more approved adults, for any part of a twenty-four (24) hour day.
22 These programs shall be subject to yearly licensing as addressed in this chapter and shall comply with all
23 applicable state and local fire, health, and zoning regulations.

1 (11) "Licensee" means any person, firm, corporation, association, or agency, which holds a valid
2 license under this chapter.

3 (12) "Regulation" means any requirement for licensure, promulgated pursuant to this chapter
4 having the force of law.

5 (13) "Related" means any of the following relationships, by marriage, blood or adoption, even
6 following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt, uncle, and
7 first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant who relies for a
8 defense upon the relationship of any child to him or herself, the defendant shall have the burden of proof
9 as to the relationship.

10 **42-12.5-3. Powers and scope of activities.**

11 (a) The department shall issue, deny, suspend, and revoke licenses for, and monitor the operation
12 of, facilities and programs by child day care providers, as defined in § 42-12.5-2.

13 (b) The department is hereby authorized and directed to adopt, amend, and rescind regulations in
14 accordance with this chapter and implement its provisions. The regulations shall be promulgated and
15 become effective in accordance with the provisions of the Administrative Procedures Act, chapter 35 of
16 title 42 and shall address, but need not be limited to the following:

17 (1) Financial, administrative and organizational ability, and stability of the applicant;

18 (2) Compliance with specific fire and safety codes and health regulations;

19 (3) Character, health suitability, qualifications of child day care providers;

20 (4) Staff/child ratios and workload assignments of staff providing care or supervision to children;

21 (5) Type and content of records or documents that must be maintained to collect and retain
22 information for the planning and caring for children;

23 (6) Procedures and practices regarding basic child day care to ensure protection to the child;

1 (7) Service to families of children in care;

2 (8) Program activities, including components related to physical growth, social, emotional,
3 educational, and recreational activities;

4 (9) Investigation of previous employment, criminal record check and department records check;
5 and

6 (10) Immunization and testing requirements for communicable diseases, including, but not
7 limited to, tuberculosis, of child day care providers and children at any child day-care center or family
8 day-care home as is specified in regulations promulgated by the director of the department of health.
9 Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the department of
10 human services.

11 (c) The department through its licensing unit shall administer and manage the regulations
12 pertaining to the licensing and monitoring of child day care providers, and shall exercise all statutory and
13 administrative powers necessary to carry out its functions.

14 (d) The administrator shall investigate complaints of noncompliance, and shall take licensing
15 action as may be necessary pursuant to this chapter.

16 (e) The administrator may:

17 (1) Prescribe any forms for reports, statements, notices, and other documents deemed necessary;

18 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to
19 facilitate compliance with and enforcement of the regulations;

20 (3) Prepare reports and studies to advance the purpose of this chapter;

21 (4) Provide consultation and technical assistance, as requested, to assist licensees in maintaining
22 compliance; and

1 (f) The department may promulgate rules and regulations for the establishment of child day care
2 centers located on the second floor.

3 (g) When the department is otherwise unsuccessful in remedying noncompliance with the
4 provisions of this chapter and the regulations promulgated thereunder it may petition the superior court
5 for an order enjoining the noncompliance or for any order that equity and justice may require.

6 (h) The department shall collaborate with the departments of children, youth, and families,
7 elementary and secondary education, and health to provide monitoring, mentoring, training, technical
8 assistance, and other services which are necessary and appropriate to improving the quality of child day
9 care offered by child day care providers who are certified, licensed, or approved by the department or the
10 department of elementary and secondary education or who are seeking certification, licensure, or approval
11 pursuant to § 42-12.5 or § 16-48-2, including non-English speaking providers.

12 (i) Notwithstanding the transfer of licensing to and the licensing and monitoring of day and child
13 care facilities to the department of human services, pursuant to chapter 42-72.1, the department of
14 children, youth and families will continue to be the agency responsible for investigating any complaint of
15 abuse and neglect that is alleged to have occurred at a day care or child care facility. Any appeal of an
16 investigative finding of abuse or neglect against a staff member, paid or otherwise, including managerial
17 or contract personnel, or visitor may be appealed to the Rhode Island Family Court.

18 **42-12.5-4. License required.**

19 (a) No person shall receive or place children in child day care services, including day care
20 arrangements, without a license issued pursuant to this chapter. This requirement does not apply to a
21 person related by blood, marriage, guardianship or adoption to the child, unless that arrangement is for the
22 purposes of day care.

1 **(b) The licensing requirement does not apply to shelter operations for parents with children,**
2 **boarding schools, recreation camps, nursing homes, hospitals, maternity residences, and centers for**
3 **developmentally disabled children.**

4 **(c) No person, firm, corporation, association, or agency shall operate a family day care home**
5 **without a registration certificate issued by the department, unless they hold an unexpired registration**
6 **certificate issued by the Department of Children, Youth, and Families prior to January 1, 2020.**

7 **(d) No state, county, city, or political subdivision shall operate a child day care agency or center,**
8 **program or facility without a license issued pursuant to this chapter.**

9 **(e) No person shall be exempt from a required license by reason of public or private, sectarian,**
10 **non-sectarian, child day care program, for profit or non-profit status, or by any other reason of funding,**
11 **sponsorship, or affiliation.**

12 **42-12.5-5. General licensing provisions.**

13 **The following general licensing provisions shall apply:**

14 **(1) A license issued under this chapter is not transferable and applies only to the licensee and the**
15 **location stated in the application and remains the property of the department. A license shall be publicly**
16 **displayed. A license shall be valid for one year from the date of issue and upon continuing compliance**
17 **with the regulations, except that a certificate issued to a family day care home shall be valid for two (2)**
18 **years from the date of issue.**

19 **(2) Every license application issued pursuant to § 42-12.5-4 shall be accompanied by a**
20 **nonrefundable application fee paid to the State of Rhode Island as follows:**

21 **(a) Child day care center license- five hundred dollars (\$500);**

22 **(b) Group family day care home license – two hundred and fifty dollars (\$250);**

23 **(c) Family day care home license- one hundred dollars (\$100).**

1 (3) All fees collected by the State pursuant to paragraph (2) of this section shall be deposited by
2 the general treasurer as general revenues.

3 (4) A licensee shall comply with applicable state fire and health safety standards.

4 (5) The department may grant a provisional license to an applicant who is not able to demonstrate
5 compliance with all of the regulations because the program or residence is not in full operation; however,
6 the applicant must meet all regulations that can be met in the opinion of the administrator before the
7 program is fully operational. The provisional license shall be granted for a limited period not to exceed
8 six (6) months and shall be subject to review every three (3) months.

9 (6) The department may grant a probationary license to a licensee who is temporarily unable to
10 comply with a rule or rules when the noncompliance does not present an immediate threat to the health
11 and well-being of the children, and when the licensee has obtained a plan approved by the administrator
12 to correct the areas of noncompliance within the probationary period. A probationary license shall be
13 issued for up to twelve (12) months; it may be extended for an additional six (6) months at the discretion
14 of the administrator. A probationary license that states the conditions of probation may be issued by the
15 administrator at any time for due cause. Any prior existing license is invalidated when a probationary
16 license is issued. When the probationary license expires, the administrator may reinstate the original
17 license to the end of its term, issue a new license, suspend, or revoke the license.

18 (7) The administrator will establish criteria and procedure for granting variances as part of the
19 regulations.

20 (8) The above exceptions (probationary and provisional licensing and variances) do not apply to
21 and shall not be deemed to constitute any variance from state fire and health safety standards. However, if
22 a request for a variance of fire inspection deficiencies has been submitted to the fire safety code board of
23 appeal and review, DHS may grant a provisional license to terminate no later than thirty (30) days
24 following the board's decision on said variance.

1 (9) A license under this chapter shall be granted to a child day care program without the necessity
2 for a separate fire, building, or radon inspection, when said child day care program is conducted at a
3 Rhode Island elementary or secondary school which has already been found in compliance with said
4 inspections, provided that an applicant complies with all other provisions of DHS regulations, or has been
5 granted appropriate variances by the department.

6 **42-12.5-6. Violations, suspensions and revocations of license.**

7 (a) When a licensee violates the terms of the license, the provisions of this chapter, or any
8 regulation thereunder, the department may pursue the administrative remedies herein provided, in
9 addition to other civil or criminal remedies according to the general laws.

10 (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35 of title
11 42, the administrator may revoke the license, or suspend the license for a period not exceeding six (6)
12 months.

13 (c) During a suspension, the facility or program shall cease operation.

14 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of suspension,
15 submit an acceptable plan of corrective action to the administrator. The plan shall outline the steps and
16 timetables for immediate correction of the areas of noncompliance and is subject to the approval of the
17 administrator.

18 (e) At the end of the suspension, the administrator may reinstate the license for the term of the
19 original license, revoke the license, issue a new license, or deny a reapplication.

20 (f) Upon revocation, the licensed program or facility shall cease operation. The licensee whose
21 license has been revoked may not apply for a similar license within a three (3) year period from the date
22 of revocation.

1 (g) Except in those instances wherein there is a determination that there exists a danger to the
2 public health, safety, or welfare or there is a determination that the childcare provider has committed a
3 serious breach of State law, orders, or regulation, the director shall utilize progressive penalties for
4 noncompliance of any rule, regulation or order relating to childcare providers. Progressive penalties could
5 include written notice of noncompliance, education and training, suspending enrollment to the program,
6 assessing fines, suspension of license, and revocation of license.

7 (h) Any child day care provider, as defined in this chapter, who has exhausted all administrative
8 remedies within the department of human services and who is aggrieved by a final order of the
9 department of human services, may file for judicial review in the superior court of providence county
10 pursuant to § 42-35-15.

11 (i) The Rhode Island Family Court shall retain jurisdiction over those complaints investigated by
12 the department of children youth and families, pursuant to chapter 72.1, regardless of whether licensing
13 and monitoring is performed under chapter 12.5 of this title or chapter 72.1 of this title.

14 **42-12.5-7. Penalties for violations.**

15 (a) Any person who violates any of the provisions of this chapter, or any regulations issued
16 pursuant to this chapter, or who shall intentionally make any false statement or reports to the director with
17 reference to the matters contained herein, shall, upon conviction for the first offense, be imprisoned for a
18 term not exceeding six (6) months or be fined not exceeding five hundred dollars (\$500), or both, and for
19 a second or subsequent offense, shall be imprisoned for a term not exceeding one year or be fined not
20 exceeding one thousand dollars (\$1000), or both the fine and imprisonment.

21 (b) Anyone who maintains or conducts a program or facility without first having obtained a
22 license pursuant to this chapter, or who maintains or conducts a program or facility after a license has
23 been revoked or suspended, or who shall refuse to permit a reasonable inspection and examination of a
24 program or facility, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than

1 five hundred dollars (\$500) for each week that the program or facility shall have been maintained without
2 a license or for each refusal to permit inspection and examination by the director.

3 (c) Any individual, firm, corporation, or other entity who maintains or conducts a family day care
4 home without first having obtained a registration certificate for the home pursuant to this chapter, shall be
5 guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars (\$25.00)
6 nor more than one hundred dollars (\$100) for each week that the home shall have been maintained
7 without a valid registration certificate.

8 (d) The department shall refer any violations to the attorney general's office for prosecution.

9 **42-12.5-8. Open door policy.**

10 There shall be an open door policy permitting any custodial parent or legal guardian to have
11 access to a day care facility for any program when their child is in attendance.

12 SECTION 16. Sections 42-66-2 of the General Laws in Chapter 42-66 entitled “Elderly Affairs
13 Department” is hereby amended to read as follows:

14 **42-66-2. Establishment of department – Director.**

15 There is established within the executive branch of state government a department of elderly
16 affairs. The head director of the department shall be the director of elderly affairs, who shall be a person
17 qualified by training and experience to perform the duties of the office, appointed by and reporting
18 directly to the governor.

19 The director shall be in the unclassified service, appointed by the governor with the advice and
20 consent of the senate, and shall serve at the pleasure of the governor and until the appointment and
21 qualification of the director's successor. The director shall receive a salary as provided by law.

22 SECTION 17. Section 42-72-5 of the General Laws in Chapter 42-72 entitled “Department of
23 Children, Youth and Families” are hereby amended as follows:

1 **42-72-5. Powers and scope of activities.**

2 (a) The department is the principal agency of the state to mobilize the human, physical, and
3 financial resources available to plan, develop, and evaluate a comprehensive and integrated statewide
4 program of services designed to ensure the opportunity for children to reach their full potential. The
5 services include prevention, early intervention, outreach, placement, care and treatment, and after-care
6 programs; provided, however, that the department notifies the state police and cooperates with local
7 police departments when it receives and/or investigates a complaint of sexual assault on a minor and
8 concludes that probable cause exists to support the allegations(s). The department also serves as an
9 advocate for the needs of children.

10 (b) To accomplish the purposes and duties, as set forth in this chapter, the director is authorized
11 and empowered:

12 (1) To establish those administrative and operational divisions of the department that the director
13 determines is in the best interests of fulfilling the purposes and duties of this chapter;

14 (2) To assign different tasks to staff members that the director determines best suit the purposes
15 of this chapter;

16 (3) To establish plans and facilities for emergency treatment, relocation, and physical custody of
17 abused or neglected children that may include, but are not limited to, homemaker/educator child-case
18 aides, specialized foster-family programs, day-care facilities, crisis teams, emergency parents, group
19 homes for teenage parents, family centers within existing community agencies, and counseling services;

20 (4) To establish, monitor, and evaluate protective services for children including, but not limited
21 to, purchase of services from private agencies and establishment of a policy and procedure manual to
22 standardize protective services;

23 (5) To plan and initiate primary- and secondary-treatment programs for abused and neglected
24 children;

25 (6) To evaluate the services of the department and to conduct periodic, comprehensive-needs
26 assessment;

- 1 (7) To license, approve, monitor, and evaluate all residential and non-residential ~~child care~~
2 ~~institutions~~, group homes, foster homes, and programs;
- 3 (8) To recruit and coordinate community resources, public and private;
- 4 (9) To promulgate rules and regulations concerning the confidentiality, disclosure, and
5 expungement of case records pertaining to matters under the jurisdiction of the department;
- 6 (10) To establish a minimum mandatory level of twenty (20) hours of training per year and
7 provide ongoing staff development for all staff; provided, however, all social workers hired after June 15,
8 1991, within the department shall have a minimum of a bachelor's degree in social work or a closely
9 related field, and must be appointed from a valid, civil-service list;
- 10 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to chapter
11 11 of title 40;
- 12 (12) To promulgate all rules and regulations necessary for the execution of departmental powers
13 pursuant to the Administrative Procedures Act, chapter 35 of title 42;
- 14 (13) To provide and act as a clearinghouse for information, data, and other materials relative to
15 children;
- 16 (14) To initiate and carry out studies and analysis that will aid in solving local, regional, and
17 statewide problems concerning children;
- 18 (15) To represent and act on behalf of the state in connection with federal-grant programs
19 applicable to programs for children in the functional areas described in this chapter;
- 20 (16) To seek, accept, and otherwise take advantage of all federal aid available to the department,
21 and to assist other agencies of the state, local agencies, and community groups in taking advantage of all
22 federal grants and subventions available for children;
- 23 (17) To review and coordinate those activities of agencies of the state, and of any political
24 subdivision of the state, that affect the full and fair utilization of community resources for programs for
25 children, and initiate programs that will help ensure utilization;

1 (18) To administer the pilot, juvenile-restitution program, including the overseeing and
2 coordinating of all local, community-based restitution programs, and the establishment of procedures for
3 the processing of payments to children performing community service;

4 (19) To adopt rules and regulations that:

5 (i) For the twelve-month (12) period beginning on October 1, 1983, and for each subsequent
6 twelve-month (12) period, establish specific goals as to the maximum number of children who will
7 remain in foster care for a period in excess of two (2) years; and

8 (ii) Are reasonably necessary to implement the child-welfare services and foster-care programs;

9 (20) May establish and conduct seminars for the purpose of educating children regarding sexual
10 abuse;

11 (21) To establish fee schedules by regulations for the processing of requests from adoption
12 placement agencies for adoption studies, adoption study updates, and supervision related to interstate and
13 international adoptions. The fee shall equal the actual cost of the service(s) rendered, but in no event shall
14 the fee exceed two thousand dollars (\$2,000);

15 (22) To be responsible for the education of all children who are placed, assigned, or otherwise
16 accommodated for residence by the department in a state-operated or -supported community residence
17 licensed by a Rhode Island state agency. In fulfilling this responsibility, the department is authorized to
18 enroll and pay for the education of students in the public schools or, when necessary and appropriate, to
19 itself provide education in accordance with the regulations of the board of regents for elementary and
20 secondary education either directly or through contract;

21 (23) To develop multidisciplinary service plans, in conjunction with the department of health, at
22 hospitals prior to the discharge of any drug-exposed babies. The plan requires the development of a plan
23 using all health-care professionals;

24 (24) To be responsible for the delivery of appropriate mental health services to seriously
25 emotionally disturbed children and children with functional developmental disabilities. Appropriate
26 mental health services may include hospitalization, placement in a residential treatment facility, or

1 treatment in a community-based setting. The department is charged with the responsibility for developing
2 the public policy and programs related to the needs of seriously emotionally disturbed children and
3 children with functional developmental disabilities;

4 In fulfilling its responsibilities the department shall:

5 (i) Plan a diversified and comprehensive network of programs and services to meet the needs of
6 seriously emotionally disturbed children and children with functional developmental disabilities;

7 (ii) Provide the overall management and supervision of the state program for seriously
8 emotionally disturbed children and children with functional developmental disabilities;

9 (iii) Promote the development of programs for preventing and controlling emotional or behavioral
10 disorders in children;

11 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of
12 seriously emotionally disturbed children and children with functional developmental disabilities and to
13 work with private agencies serving those children;

14 (v) Promote the development of new resources for program implementation in providing services
15 to seriously emotionally disturbed children and children with functional developmental disabilities.

16 The department shall adopt rules and regulations that are reasonably necessary to implement a program of
17 mental health services for seriously emotionally disturbed children.

18 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at least in
19 accordance with rules and regulations to be adopted by the department, at least its average per-pupil cost
20 for special education for the year in which placement commences, as its share of the cost of educational
21 services furnished to a seriously emotionally disturbed child pursuant to this section in a residential
22 treatment program that includes the delivery of educational services.

23 "Seriously emotionally disturbed child" means any person under the age of eighteen (18) years, or any
24 person under the age of twenty-one (21) years, who began to receive services from the department prior to
25 attaining eighteen (18) years of age and has continuously received those services thereafter; who has been
26 diagnosed as having an emotional, behavioral, or mental disorder under the current edition of the

1 Diagnostic and Statistical Manual and that disability has been ongoing for one year or more or has the
2 potential of being ongoing for one year or more; and the child is in need of multi-agency intervention; and
3 the child is in an out-of-home placement or is at risk of placement because of the disability.

4 A child with a "functional developmental disability" means any person under the age of eighteen (18)
5 years or any person under the age of twenty-one (21) years who began to receive services from the
6 department prior to attaining eighteen (18) years of age and has continuously received those services
7 thereafter.

8 The term "functional developmental disability" includes autism spectrum disorders and means a severe,
9 chronic disability of a person that:

10 (A) Is attributable to a mental or physical impairment or combination of mental physical
11 impairments;

12 (B) Is manifested before the person attains age eighteen (18);

13 (C) Is likely to continue indefinitely;

14 (D) Results in age-appropriate, substantial, functional limitations in three (3) or more of the
15 following areas of major life activity:

16 (I) Self-care;

17 (II) Receptive and expressive language;

18 (III) Learning;

19 (IV) Mobility;

20 (V) Self direction;

21 (VI) Capacity for independent living; and

22 (VII) Economic self-sufficiency; and

23 (E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or
24 generic care, treatment, or other services that are of life-long or extended duration and are individually
25 planned and coordinated.

1 Funding for these clients shall include funds that are transferred to the department of human services as
2 part of the managed health-care-program transfer. However, the expenditures relating to these clients
3 shall not be part of the department of human services' caseload estimated for the semi-annual, caseload-
4 estimating conference. The expenditures shall be accounted for separately;

5 (25) To provide access to services to any person under the age of eighteen (18) years, or any
6 person under the age of twenty-one (21) years who began to receive child-welfare services from the
7 department prior to attaining eighteen (18) years of age, has continuously received those services
8 thereafter, and elects to continue to receive such services after attaining the age of eighteen (18) years.

9 The general assembly has included funding in the FY 2008 DCYF budget in the amount of \$10.5 million
10 from all sources of funds and \$6.0 million from general revenues to provide a managed system to care for
11 children serviced between 18 to 21 years of age. The department shall manage this caseload to this level
12 of funding;

13 (26) To initiate transition planning in cooperation with the department of behavioral healthcare,
14 developmental disabilities and hospitals and local school departments for any child who receives services
15 through DCYF; is seriously emotionally disturbed or developmentally delayed pursuant to paragraph
16 (b)(24)(v); and whose care may or shall be administered by the department of behavioral healthcare,
17 developmental disabilities and hospitals after the age of twenty-one (21) years; the transition planning
18 shall commence at least twelve (12) months prior to the person's twenty-first birthday and shall result in a
19 collaborative plan submitted to the family court by both the department of behavioral healthcare,
20 developmental disabilities and hospitals and the department of children, youth and families and shall
21 require the approval of the court prior to the dismissal of the abuse, neglect, dependency, or
22 miscellaneous petition before the child's twenty-first birthday;

23 (27) To develop and maintain, in collaboration with other state and private agencies, a
24 comprehensive continuum of care in this state for children in the care and custody of the department or at
25 risk of being in state care. This continuum of care should be family centered and community based with
26 the focus of maintaining children safely within their families or, when a child cannot live at home, within

1 as close proximity to home as possible based on the needs of the child and resource availability. The
2 continuum should include community-based prevention, family support, and crisis-intervention services,
3 as well as a full array of foster care and residential services, including residential services designed to
4 meet the needs of children who are seriously emotionally disturbed, children who have a functional
5 developmental disability, and youth who have juvenile justice issues. The director shall make reasonable
6 efforts to provide a comprehensive continuum of care for children in the care and custody of DCYF,
7 taking into account the availability of public and private resources and financial appropriations and the
8 director shall submit an annual report to the general assembly as to the status of his or her efforts in
9 accordance with the provisions of § 42-72-4(b)(13);

10 (28) To administer funds under the John H. Chafee Foster Care Independence and Educational
11 and Training Voucher (ETV) Programs of Title IV-E of the Social Security Act [42 U.S.C. § 677] and the
12 DCYF higher education opportunity grant program as outlined in chapter 72.8 of title 42, in accordance
13 with rules and regulations as promulgated by the director of the department; and

14 (29) To process nationwide, criminal-record checks on prospective foster parents and any
15 household member age 18 or older, prospective adoptive parents and any household member age 18 and
16 older, operators of child-care facilities, persons seeking to act as volunteer court-appointed special
17 advocates, persons seeking employment in a child-care facility or at the training school for youth or on
18 behalf of any person seeking employment at DCYF, who are required to submit to nationwide, criminal-
19 background checks as a matter of law.

20 (c) In order to assist in the discharge of his or her duties, the director may request from any
21 agency of the state information pertinent to the affairs and problems of children.

22 SECTION 18. The title of Chapter 42-72.1 of the General Laws entitled "Licensing and
23 Monitoring of Childcare Providers and Child-Placing Agencies" is hereby amended to read as follows:

24 ~~CHAPTER 42-72.1~~

25 ~~LICENSING AND MONITORING OF CHILDCARE PROVIDERS AND CHILD PLACING~~
26 ~~AGENCIES~~

1 CHAPTER 42-72.1

2 LICENSING AND MONITORING OF CHILD PLACING AGENCIES, CHILD CARING AGENCIES,
3 FOSTER AND ADOPTIVE HOMES, AND CHILDREN'S BEHAVIORIAL HEALTH PROGRAMS.

4 SECTION 19. Sections 42-72.1-1, 42-72.1-2, 42-72.1-3, 42-72.1-4, 42-72.1-5, 42-72.1-6, and 42-
5 72.1-7 of the General Laws in Chapter 42-72.1 entitled "Licensing and Monitoring of Childcare Providers
6 and Child-Placing Agencies" are hereby amended to read as follows.

7 **42-72.1-1. Statement of purpose.**

8 (a) The director of the department of children, youth, and families, pursuant to § 42-72-5(b)(7)
9 and § 42-72-5(b)(24), shall establish within the department a unit to license and monitor ~~child-care~~
10 ~~providers and child-placing agencies,~~ child caring agencies, foster and adoptive homes, and children's
11 behavioral health programs to protect the health, safety and wellbeing of children temporarily separated
12 from or being cared for away from their natural families.

13 (b) Services for children requiring licensure under this chapter shall include all ~~child-care~~
14 ~~providers and child placing agencies,~~ child caring agencies, foster and adoptive homes, and children's
15 behavioral health programs which offer services within the state, except as defined in § 42-72.1-5.

16 **42-72.1-2. Definitions.**

17 As used in this chapter:

18 (1) "Administrator of licensing" means the director of the licensing unit (or his/her designee) that
19 carries out the provisions of this chapter, hereafter referred to as the "administrator".

20 (2) "Applicant" means a child-placing agency, child caring agencies, foster and adoptive homes,
21 and children's behavioral health programs ~~or childcare provider~~ that applies for a license to operate.

22 (3) "Child" means any person less than eighteen (18) years of age; provided, that a child over
23 eighteen (18) years of age who is nevertheless subject to continuing jurisdiction of the family court,
24 pursuant to chapter 1 of title 14, or defined as emotionally disturbed according to chapter 7 of title 40.1,
25 shall be considered a child for the purposes of this chapter.

1 ~~(4) "Childcare provider" means a person or agency, which offers residential or nonresidential care~~
2 ~~and/or treatment for a child outside of his/her natural home.~~

3 ~~(5) "Child day care" means daily care and/or supervision offered commercially to the public for~~
4 ~~any part of a twenty four (24) hour day to children away from their homes.~~

5 ~~(6) "Child day care center" means any person, firm, corporation, association, or agency who, on a~~
6 ~~regular or irregular basis, receives any child under the age of sixteen (16) years, for the purpose of care~~
7 ~~and/or supervision, not in a home or residence, apart from the child's parent or guardian for any part of a~~
8 ~~twenty four (24) hour day irrespective of compensation or reward. It shall include childcare programs that~~
9 ~~are offered to employees at the worksite. It does not include nursery schools or other programs of~~
10 ~~educational services subject to approval by the commissioner of elementary and secondary education.~~

11 (4) "Child Caring Agency" means any facility that provides residential treatment, residential
12 group home care or semi-independent living, or residential assessment and stabilization.

13 ~~(7)~~(5) "Child-placing agency" means any private or public agency, which receives children for
14 placement into independent living arrangements, supervised apartment living, residential group care
15 facilities, family foster homes, or adoptive homes.

16 (6) "Children's Behavioral Health Program" means any private or public agency which provides
17 behavioral health services to children.

18 ~~(8)~~(7) "Department" means the department of children, youth, and families (DCYF).

19 ~~(9)~~(8) "Director" means the director of the department of children, youth, and families, or the
20 director's designee.

21 (9) "Foster and Adoptive Homes" means one or more adults who are licensed to provide foster or
22 adoptive caregiving in a family-based home setting.

1 ~~(10) "Family day care home" means any home other than the child's home in which child day care~~
2 ~~in lieu of parental care and/or supervision is offered at the same time to four (4) or more children who are~~
3 ~~not relatives of the care giver.~~

4 ~~(11) "Group family day care home" means a residence occupied by an individual of at least~~
5 ~~twenty one (21) years of age who provides care for not less than nine (9) and not more than twelve (12)~~
6 ~~children, with the assistance of one or more approved adults, for any part of a twenty four (24) hour day.~~
7 ~~The maximum of twelve (12) children shall include children under six (6) years of age who are living in~~
8 ~~the home, school age children under the age of twelve (12) years whether they are living in the home or~~
9 ~~are received for care, and children related to the provider who are received for care. These programs shall~~
10 ~~be subject to yearly licensing as addressed in this chapter and shall comply with all applicable state and~~
11 ~~local fire, health, and zoning regulations.~~

12 ~~(12) (10)~~ "Licensee" means any person, firm, corporation, association, or agency, which holds a
13 valid license under this chapter.

14 ~~(13) (11)~~ "Regulation" means any requirement for licensure, promulgated pursuant to this chapter
15 having the force of law.

16 ~~(14) (12)~~ "Related" means any of the following relationships, by marriage, blood or adoption,
17 even following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt, uncle,
18 and first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant who relies
19 for a defense upon the relationship of any child to him or herself, the defendant shall have the burden of
20 proof as to the relationship.

21 **42-72.1-3. Powers and scope of activities.**

22 (a) The department shall issue, deny, and revoke licenses for, and monitor the operation of,
23 facilities and programs by child placing agencies, child caring agencies, foster and adoptive homes, and
24 children's behavioral health programs and child care providers, as defined in § 42-72.1-2.

1 (b) The department shall adopt, amend, and rescind regulations in accordance with this chapter
2 and implement its provisions. The regulations shall be promulgated and become effective in accordance
3 with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

4 (c) The department through its licensing unit shall administer and manage the regulations
5 pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and
6 administrative powers necessary to carry out its functions.

7 (d) The administrator shall investigate complaints of noncompliance, and shall take licensing
8 action as required.

9 (e) Regulations formulated pursuant to the foregoing authority shall include, but need not be
10 limited to, the following:

11 (1) Financial, administrative and organizational ability, and stability of the applicant;

12 (2) Compliance with specific fire and safety codes and health regulations;

13 (3) Character, health suitability, qualifications of child-placing agencies, child caring agencies,
14 foster and adoptive homes, and children's behavioral health programs ~~care providers~~;

15 (4) Staff/child ratios and workload assignments of staff providing care or supervision to children;

16 (5) Type and content of records or documents that must be maintained to collect and retain
17 information for the planning and caring for children;

18 (6) Procedures and practices regarding ~~basic child care~~ and placing services to ensure protection
19 to the child regarding the manner and appropriateness of placement;

20 (7) Service to families of children in care;

21 (8) Program activities, including components related to physical growth, social, emotional,
22 educational, and recreational activities, social services and habilitative or rehabilitative treatment; and

1 (9) Investigation of previous employment, criminal record check and department records check.;
2 and

3 ~~(10) Immunization and testing requirements for communicable diseases, including, but not~~
4 ~~limited to, tuberculosis, of child care providers and children at any child day care center or family day-~~
5 ~~care home as is specified in regulations promulgated by the director of the department of health.~~

6 Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the department of
7 children, youth, and families.

8 (f) The administrator may:

9 (1) Prescribe any forms for reports, statements, notices, and other documents deemed necessary;

10 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to
11 facilitate compliance with and enforcement of the regulations;

12 (3) Prepare reports and studies to advance the purpose of this chapter;

13 (4) Provide consultation and technical assistance, as requested, to assist licensees in maintaining
14 compliance; and

15 (5) Refer to the advisory council for children and families for advice and consultation on
16 licensing matter.

17 ~~(g) The department may promulgate rules and regulations for the establishment of child day care~~
18 ~~centers located on the second floor.~~

19 ~~(h)~~(g) When the department is otherwise unsuccessful in remedying noncompliance with the
20 provisions of this chapter and the regulations promulgated under it, it shall petition the family court for an
21 order enjoining the noncompliance or for any order that equity and justice may require.

1 (i) ~~The department shall collaborate with the departments of human services, elementary and~~
2 ~~secondary education, and health to provide monitoring, mentoring, training, technical assistance, and~~
3 ~~other services which are necessary and appropriate to improving the quality of child care offered by child~~
4 ~~care providers who are certified, licensed, or approved by the department or the department of elementary~~
5 ~~and secondary education or who are seeking certification, licensure, or approval pursuant to § 42-72-1 or~~
6 ~~§ 16-48-2, including non-English speaking providers.~~

7 (j)(h) The department shall adopt, amend, and rescind regulations in the same manner as set forth
8 above in order to permit the placement of a pregnant minor in a group residential facility which provides a
9 shelter for pregnant adults as its sole purpose.

10 (i) Notwithstanding the transfer of licensing to and the licensing and monitoring of day and child
11 care facilities to the department of human Services, pursuant to chapter 42-12.5, the department of
12 children, youth and families will continue to be the agency responsible for investigating any complaint of
13 abuse and neglect that is alleged to have occurred at a day care or child care facility. Any appeal of an
14 investigative finding of abuse or neglect against a staff member, paid or otherwise, including managerial
15 or contract personnel, or visitor may be appealed to the Rhode Island Family Court.

16 (j) The Rhode Island Family Court shall retain jurisdiction over those complaints investigated by
17 the department of children youth and families, pursuant to this chapter, regardless of whether licensing
18 and monitoring is performed under chapter 12.5 of this title or chapter 72.1 of this title.

19 **42-72.1-4. License required.**

20 (a) No person shall provide continuing full-time care for a child apart from the child's parents, ~~or~~
21 ~~receive or place children in child care services, including day care arrangements,~~ without a license issued
22 pursuant to this chapter. This requirement does not apply to a person related by blood, marriage,
23 guardianship or adoption to the child. Licensing requirements for child day care services are governed by
24 §42-12.5-4 *et seq.* ~~, unless that arrangement is for the purposes of day care.~~

1 (b) The licensing requirement does not apply to shelter operations for parents with children,
2 boarding schools, recreation camps, nursing homes, hospitals, maternity residences, and centers for
3 developmentally disabled children.

4 (c) No person, firm, corporation, association, or agency, other than a parent shall place, offer to
5 place, or assist in the placement of a child in Rhode Island, for the purpose of adoption, unless the person,
6 firm, corporation, or agency shall have been licensed for those purposes by the department or is a
7 governmental child-placing agency, and that license shall not have been rescinded at the time of
8 placement of a child for the purpose of adoption. The above does not apply when a person, firm,
9 corporation, association, or agency places, offers to place, or assists in the placement of a child in Rhode
10 Island, for the purpose of adoption through a child-placement agency duly licensed for child-placement in
11 the state or through the department of children, youth, and families, nor when the child is placed with a
12 father, sister, brother, aunt, uncle, grandparent, or stepparent of the child.

13 (d) No parent shall assign or otherwise transfer to another not related to him or her by blood or
14 marriage, his or her rights or duties with respect to the permanent care and custody of his or her child
15 under eighteen (18) years of age unless duly authorized so to do by an order or decree of court.

16 (e) No person shall bring or send into the state any child for the purpose of placing him or her out,
17 or procuring his or her adoption, or placing him or her in a foster home without first obtaining the written
18 consent of the director, and that person shall conform to the rules of the director and comply with the
19 provisions of the Interstate Compact on the Placement of Children, chapter 15 of title 40.

20 ~~(f) No person, firm, corporation, association, or agency shall operate a family day care home~~
21 ~~without a registration certificate issued by the department.~~

22 ~~(fg)~~ No state, county, city, or political subdivision shall operate a child placing ~~or child care~~
23 agency, child caring agency, foster and adoptive home, or children's behavioral health program or facility
24 without a license issued pursuant to this chapter.

1 (gh) No person shall be exempt from a required license by reason of public or private, sectarian,
2 non-sectarian, court-operated child placement program ~~or child-care program, child caring agency, foster~~
3 and adoptive home, or children's behavioral health program for profit or non-profit status, or by any other
4 reason of funding, sponsorship, or affiliation.

5 **42-72.1-5. General licensing provisions.**

6 The following general licensing provisions shall apply:

7 (1) A license issued under this chapter is not transferable and applies only to the licensee and the
8 location stated in the application and remains the property of the department. A license shall be publicly
9 displayed. A license shall be valid for one year from the date of issue and upon continuing compliance
10 with the regulations, ~~except that a certificate issued to a family day care home,~~ a license issued to a foster
11 parent, and/or a license issued to a program for mental health services for "seriously emotionally
12 disturbed children" as defined in § 42-72-5(b)(24) shall be valid for two (2) years from the date of issue.

13 (2) Every license application issued pursuant to § 42-72.1-4 shall be accompanied by a
14 nonrefundable application fee paid to the State of Rhode Island as follows:

15 (a) Adoption and foster care child placing agency license- one thousand dollars (\$1000);

16 ~~(b) Child day care center license five hundred dollars (\$500);~~

17 ~~(c) Group family day care home license two hundred and fifty dollars (\$250);~~

18 ~~(d) Family day care home license one hundred dollars (\$100).~~

19 (3) All fees collected by the State pursuant to paragraph (2) of this section shall be deposited by
20 the general treasurer as general revenues.

21 (4) A licensee shall comply with applicable state fire and health safety standards.

1 (5) The department may grant a provisional license to an applicant, excluding any foster parent
2 applicant, who is not able to demonstrate compliance with all of the regulations because the program or
3 residence is not in full operation; however, the applicant must meet all regulations that can be met in the
4 opinion of the administrator before the program is fully operational. The provisional license shall be
5 granted for a limited period not to exceed six (6) months and shall be subject to review every three (3)
6 months.

7 (6) The department may grant a probationary license to a licensee who is temporarily unable to
8 comply with a rule or rules when the noncompliance does not present an immediate threat to the health
9 and well-being of the children, and when the licensee has obtained a plan approved by the administrator
10 to correct the areas of noncompliance within the probationary period. A probationary license shall be
11 issued for up to twelve (12) months; it may be extended for an additional six (6) months at the discretion
12 of the administrator. A probationary license that states the conditions of probation may be issued by the
13 administrator at any time for due cause. Any prior existing license is invalidated when a probationary
14 license is issued. When the probationary license expires, the administrator may reinstate the original
15 license to the end of its term, issue a new license or revoke the license.

16 (7) The administrator will establish criteria and procedure for granting variances as part of the
17 regulations.

18 (8) The above exceptions (probationary and provisional licensing and variances) do not apply to
19 and shall not be deemed to constitute any variance from state fire and health safety standards. However, if
20 a request for a variance of fire inspection deficiencies has been submitted to the fire safety code board of
21 appeal and review, DCYF may grant a provisional license to terminate no later than thirty (30) days
22 following the board's decision on said variance.

23 ~~(9) A license under this chapter shall be granted to a school age child day care program without~~
24 ~~the necessity for a separate fire, building, or radon inspection, when said child day care program is~~

1 conducted at a Rhode Island elementary or secondary school which has already been found in compliance
2 with said inspections, provided that an applicant complies with all other provisions of DCYF regulations,
3 or has been granted appropriate variances by the department.

4 **42-72.1-6. Violations, suspensions and revocations of license.**

5 (a) When a licensee violates the terms of the license, the provisions of this chapter, or any
6 regulation thereunder, the department may pursue the administrative remedies herein provided, in
7 addition to other civil or criminal remedies according to the general laws.

8 (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35 of title
9 42, the administrator may revoke the license, or suspend the license for a period not exceeding six (6)
10 months.

11 (c) During a suspension, the agency, facility or program shall cease operation.

12 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of suspension,
13 submit a plan of corrective action to the administrator. The plan shall outline the steps and timetables for
14 immediate correction of the areas of noncompliance and is subject to the approval of the administrator.

15 (e) At the end of the suspension, the administrator may reinstate the license for the term of the
16 original license, revoke the license, issue a new license, or deny a reapplication.

17 (f) Upon revocation, the licensed agency, program or facility shall cease operation. The licensee
18 whose license has been revoked may not apply for a similar license within a three (3) year period from the
19 date of revocation.

20 ~~(g) Except in those instances wherein there is a determination that there exists a danger to the~~
21 ~~public health, safety, or welfare or there is a determination that the childcare provider has committed a~~
22 ~~serious breach of State law, orders, or regulation, the director shall utilize progressive penalties for~~
23 ~~noncompliance of any rule, regulation or order relating to childcare providers. Progressive penalties could~~

1 ~~include written notice of noncompliance, education and training, suspending enrollment to the program,~~
2 ~~assessing fines, suspension of license, and revocation of license.~~

3 **42-72.1-7. Penalties for violations.**

4 (a) Any person who violates any of the provisions of this chapter, or any regulations issued
5 pursuant to this chapter, or who shall intentionally make any false statement or reports to the director with
6 reference to the matters contained herein, shall, upon conviction for the first offense, be imprisoned for a
7 term not exceeding six (6) months or be fined not exceeding five hundred dollars (\$500), or both, and for
8 a second or subsequent offense, shall be imprisoned for a term not exceeding one year or be fined not
9 exceeding one thousand dollars (\$1000), or both the fine and imprisonment.

10 (b) Anyone who maintains or conducts a program, agency, or facility without first having
11 obtained a license, or who maintains or conducts a program, agency, or facility after a license has been
12 revoked or suspended, or who shall refuse to permit a reasonable inspection and examination of a
13 program, agency, or facility, shall be guilty of a misdemeanor and, upon conviction, shall be fined not
14 more than five hundred dollars (\$500) for each week that the program, agency, or facility shall have been
15 maintained without a license or for each refusal to permit inspection and examination by the director.

16 ~~(c) Any individual, firm, corporation, or other entity who maintains or conducts a family day care~~
17 ~~home without first having obtained a registration certificate for the home, shall be guilty of a~~
18 ~~misdemeanor and, upon conviction, shall be fined not less than twenty five dollars (\$25.00) nor more than~~
19 ~~one hundred dollars (\$100) for each week that the home shall have been maintained without a valid~~
20 ~~registration certificate.~~

21 (c) The department shall refer any violations to the attorney general's office for prosecution.

22 SECTION 20. Section 42-72.1-8 of the General Laws in Chapter 42-72.1 entitled "Licensing and
23 Monitoring of Childcare Providers and Child-Placing Agencies" is hereby repealed.

1 ~~**42-72.1 8. Open door policy.**~~

2 ~~There shall be an open door policy permitting any custodial parent or legal guardian to have access to a~~
3 ~~day care facility for any program when their child is in attendance.~~

4 SECTION 21. Section 42-72.11-1 of the General Laws in Chapter 42-72.11 entitled
5 “Administrative Penalties for Childcare Licensing Violations” is hereby amended as follows:

6 **42-72.11-1. Definitions.**

7 As used in this chapter, the following words, unless the context clearly requires otherwise, shall
8 have the following meanings:

9 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty specified
10 by statute or, where not specified by statute, an amount not to exceed five hundred dollars (\$500).

11 (2) "Director" means the director of the department of ~~children, youth and families~~ human
12 services or his or her duly authorized agent.

13 (3) "Person" means any public or private corporation, individual, partnership, association, or
14 other entity that is licensed as a child day care center, family child day care home, group family child day
15 care home or any officer, employee or agent thereof.

16 (4) "Citation" means a notice of an assessment of an administrative penalty issued by the director
17 or his or her duly authorized agent.

18 (5) “Department” means the department of human services.

19 SECTION 22. Sections 42-154-1 and 42-154-3 in Chapter 42-154 of the General Laws entitled
20 “Division of Elderly Affairs” are hereby amended to read as follows:

21 **§ 42-154-1. Establishment of division – Director.**

1 (a) There is hereby established within the executive branch of state government and the
2 department of human services a division of elderly affairs, effective July 1, 2011. The division shall
3 reside within the department of human services for administrative purposes only. The head of the
4 division shall be the director of the division of elderly affairs, appointed by and reporting directly to the
5 governor. ~~who shall be a person qualified through and by training and experience to perform the duties of~~
6 ~~the division office. The director shall be in the unclassified service.~~

7 (b) Effective July 1, 2019, the division of elderly affairs, as established pursuant to subsection (a)
8 of this section, shall be henceforth referred to and renamed as "the office of healthy aging".

9 **§ 42-154-3. Construction of references.**

10 Effective July 1, 2011, all references in the general laws to the department of elderly affairs
11 established pursuant to chapter 42-66 ("Elderly Affairs Department") shall be deemed to mean and refer
12 to the division of elderly affairs within the department of human services as set forth in this chapter.

13 Effective July 1, 2019, all references in the general laws to either the department of elderly affairs
14 established pursuant to chapter 42-66 ("Elderly Affairs Department") or the division of elderly affairs
15 established pursuant to 42-154-1(a) shall be deemed to mean and refer to the office of healthy aging
16 within the department of human services.

17 SECTION 23. Section 46-15.1-19.1 of the General Laws in Chapter 46-15.1 entitled "Water Supply
18 Facilities" is hereby amended to read as follows:

19 **46-15.1-19.1 Big River Reservoir – Administration.**

20 The Rhode Island ~~water resources board, established pursuant to this chapter and chapter 15 of this~~
21 ~~title, department of administration~~ shall be the ~~only~~ designated agency which will administer those lands
22 acquired for the Big River Reservoir as established under section 23 of chapter 133 of the Public Laws of
23 1964. The director of the department of environmental management and the director's authorized agents,
24 employees, and designees shall, together with the ~~water resources board~~ department of administration in

1 accordance with the Big River management area land use plan for the lands, protect the natural resources
2 of the Big River Reservoir lands. The lands of the Big River Reservoir are subject to enforcement authority
3 of the department of environmental management, as provided for in chapter 17.1 of title 42, and as provided
4 for in title 20 of the General Laws.

5 **SECTION 24. Effective Date. Sections 1 and 2 of this Article will become effective October**
6 **1, 2019. All other sections in this Article will become effective upon passage.**

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