



Governor's Commission on Disabilities' Legislation Committee

Monday December 14, 2009 3 – 4:30 PM

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Attendees:	Linda Ward (Chair.); William R. Inlow (Vice Chair.); Jeanne Behie; Sharon Brinkworth; Linda Deschenes; Julie DeRosa; Timothy Flynn; Elaina Goldstein; Liberty Goodwin; Jean Lawlor; & Gwendolyn Reeve	
Absent:	Laura Jones; Kate McCarthy-Barnett; Paula Parker; Arthur M. Plitt; Msgr. Gerard O. Sabourin; & Janet Spinelli	
----- Minutes Revised-----		
Call to Order and Acceptance of the Minutes	Linda Ward, Chairperson	5 min.
Chair called the meeting to order at 3:10 PM		
MOTION: To accept the minutes of the previous meeting as presented JB/TF passed unanimously		
Action Items:	Discussion Leader:	Time:
1. Legislative Package for 2010	Linda Ward	5 min.
The 2010 Legislative Package as revised by the Commission:		
<ol style="list-style-type: none"> 1. Monitor and respond to implementation of 09 H 5983 Article 05 Sec. 01 the crisis intervention services for abused non-elderly adults (18-64) with severe impaired [need for BCI check for in-home personal care services] 2. Enacting of the John J. MacDonald Jr. Transportation Initiative [accessible taxicabs] 3. Maintain the existing RIPTA/RIde service 4. Monitor and respond to Medicaid Reform proposals to ensure maintenance of the current services to individuals with severe disabilities 5. Mandate pedestrian crosswalks have curb cuts on both sides 6. Increase home modification funding 7. Ensure implementation of the Disability Business Enterprise program 8. Mandate that mill conversions into apartments or condos have a minimum of one unit/federal formula designated as accessible and affordable 9. Mandate affordable, accessible units for people with chemical sensitivities – including inside the apartment laundry and other washing machines 10. Increase permanent supportive housing and other community services for people with behavioral health concerns 11. Address the workers' compensation liability for the person w/ the disability who employs in-home care services 		
2. Legislative Scope of Review Teams	Linda Ward	15 min.

2010 Scope of Review was approved as recommended by the Committee:

1. Budget {Only to make recommendations for the Executive Committee or Commission}
2. Civil Rights
3. Disability Prevention
4. Employment
5. Health Care
6. Housing
7. Special Education
8. Transportation
9. Human Services

With the expanded scope of review, the process for selecting bills to be placed on the Committee’s agenda will need to be changed. Teams of reviewers based on topic need to be created, since the potential number of bills that would have been reviewed in 2009 would have increased from 211 to over 325.

	Topic	# Bills in 2009	Team Members
1.	Budget	12	Tim, Linda W, Bill I
2.	Civil Rights	31	Tim, Jean L, Julie, Liberty, Linda W, Bill I
3.	Disability Prevention	42	Gwen, Sharon, Linda W, Bill I
4.	Employment	8	Elaina, Linda D, Jeanne Behie, Liberty, Linda W, Bill I
5.	Health Care - Medicaid	75 services	Elaina, Linda W, Bill I
6.	Health Care – Private Insurance		Elaina, Liberty, Linda W, Bill I
7.	Health Care – professional standards	113 professional standards	Liberty, Gwen, Linda W, Bill I
8.	Housing	4	Julie D, Sharon, Jeanne Behie, Linda W, Bill I
9.	Special Education	20	Linda D., Liberty, Linda W, Bill I
10.	Transportation	19	Gwen Reeve, Jean L, Jeanne Behie, Linda W, Bill I
11.	Human Services	??	Tim, Elaina, Linda W, Bill I

The Chair will be recruiting additional members from the Attorney General’s Office, the Health Insurance Commissioner’s Office, Senior Agenda, and the RI Disability Law Center

3. Developing Draft Legislation

Bob Cooper

Items that might be addressed by testimony during departmental budget hearings:

3. Maintain the existing RIPTA/RIde service
4. Monitor and respond to Medicaid Reform proposals to ensure maintenance of the current services to individuals with severe disabilities

- 6. Increase home modification funding
- 7. Ensure implementation of the Disability Business Enterprise program

Items that might be addressed by amending regulation:

- 6. Mandate that mill conversions into apartments or condos have a minimum of one unit/federal formula designated as accessible and affordable.
- 8. Mandate affordable, accessible units for people with chemical sensitivities – including inside the apartment laundry and other washing machines.

MOTION: To recommend the Housing Resource Commission and RI Housing amendments to the RI Housing Regulations/Standards LG/JD passed unanimously

- 11. Address the workers’ compensation liability for the person w/ the disability who employs in-home care services

MOTION: To recommend the Executive Office of Health and Human Services and the Department Labor & Training adopt policies to address the workers’ compensation status of consumers who pay for personal assistive services. TF/SB passed unanimously

Items that might be addressed by legislation:

- 1. Monitor and respond to implementation of **09 H 5983 Article 05 Sec. 01** the crisis intervention services for abused non-elderly adults (18-64) with severe impaired [need for BCI check for in-home personal care services] (see text of Article 05 Sec. 01 below).

**ARTICLE 5 SUBSTITUTE A AS AMENDED
RELATING TO GOVERNMENTAL ORGANIZATION**

SECTION 1. Sections 42-7.2-2, 42-7.2-5 and 42-7.2-6.1 of the General Laws in Chapter 42-7.2 entitled “Office of Health and Human Services” are hereby amended to read as follows:

42-7.2-2. Executive office of health and human services. -- There is hereby established within the executive branch of state government an executive office of health and human services to serve as the principal agency of the executive branch of state government for managing the departments of children, youth and families, elderly affairs, health, human services, and mental health, retardation and hospitals. In this capacity, the office shall:

(a) Lead the state's five health and human services departments in order to:

(1) Improve the economy, efficiency, coordination, and quality of health and human services policy and planning, budgeting and financing.

(2) Design strategies and implement best practices that foster service access, consumer safety and positive outcomes.

(3) Maximize and leverage funds from all available public and private sources, including federal financial participation, grants and awards.

(4) Increase public confidence by conducting independent reviews of health and human services issues in order to promote accountability and coordination across departments.

(5) Ensure that state health and human services policies and programs are responsive to changing consumer needs and to the network of community providers that deliver assistive services and supports on their behalf.

(b) Supervise the administrations of federal and state medical assistance programs by acting as the single state agency authorized under title XIX of the U.S. Social Security act, 42 U.S.C. § 1396a et seq., notwithstanding any general or public law or regulation to the contrary, and exercising such single state agency authority for such other federal and state programs as may be designated by the governor. Except as provided for herein, Nothing nothing in this chapter shall be construed as transferring to the secretary:

(1) The powers, duties or functions conferred upon the departments by Rhode Island general laws for the administration of the foregoing federal and state programs; or (2) The administrative responsibility for the

1 preparation and submission of any state plans, state plan amendments, or federal waiver applications, as
2 may be approved from time to time by the secretary with respect to the foregoing federal and state
3 programs.

4 **42-7.2-5. Duties of the secretary.** -- The secretary shall be subject to the direction and supervision of
5 the governor for the oversight, coordination and cohesive direction of state administered health and
6 human services and in ensuring the laws are faithfully executed, notwithstanding any law to the contrary.
7 In this capacity, the Secretary of Health and Human Services shall be authorized to:

8 (1) Coordinate the administration and financing of health care benefits, human services and
9 programs including those authorized by the Global Consumer Choice Compact Waiver and, as applicable,
10 the Medicaid State Plan under Title XIX of the US Social Security Act. However, nothing in this section
11 shall be construed as transferring to the secretary the powers, duties or functions conferred upon the
12 departments by Rhode Island public and general laws for the administration of federal/state programs
13 financed in whole or in part with Medicaid funds or the administrative responsibility for the preparation
14 and submission of any state plans, state plan amendments, or authorized federal waiver applications.

15 (2) Serve as the governor's chief advisor and liaison to federal policymakers on Medicaid reform
16 issues as well as the principal point of contact in the state on any such related matters.

17 (3) Review and ensure the coordination of any ~~new departmental waiver~~ Global Consumer Choice
18 Compact Waiver requests and renewals as well as any initiatives and proposals requiring amendments to
19 the Medicaid state plan or category one (I) or two (II) changes, as described in the special terms and
20 conditions of the Global Consumer Choice Compact Waiver with the potential to affect the scope, amount
21 or duration of publicly-funded health care services, provider payments or reimbursements, or access to or
22 the availability of benefits and services as provided by Rhode Island general and public laws. The
23 secretary shall consider whether any such ~~waivers or amendments~~ changes are legally and fiscally sound
24 and consistent with the state's policy and budget priorities. The secretary shall also assess whether a
25 proposed ~~waiver or amendment~~ change is capable of obtaining the necessary approvals from federal
26 officials and achieving the expected positive consumer outcomes. Department directors shall, within the
27 timelines specified, provide any information and resources the secretary deems necessary in order to
28 perform the reviews authorized in this section;

29 (4) Beginning in 2006, prepare and submit to the governor, the chairpersons of the house and senate
30 finance committees, the caseload estimating conference, and to the joint legislative committee for health
31 care oversight, by no later than ~~February 1~~ March 15 of each year, a comprehensive overview of all
32 Medicaid expenditures outcomes, and utilization rates. The overview shall include, but not be limited to,
33 the following information:

34 (i) Expenditures under Titles XIX and XXI of the Social Security Act, as amended;

35 (ii) Expenditures, outcomes and utilization rates by population and sub-population served (e.g.
36 families with children, children with disabilities, children in foster care, children receiving adoption
37 assistance, adults with disabilities, and the elderly);

38 (iii) Expenditures, outcomes and utilization rates by each state department or other municipal or
39 public entity receiving federal reimbursement under Titles XIX and XXI of the Social Security Act, as
40 amended; and

41 (iv) Expenditures, outcomes and utilization rates by type of service and/or service provider. The
42 directors of the departments, as well as local governments and school departments, shall assist and
43 cooperate with the secretary in fulfilling this responsibility by providing whatever resources, information
44 and support shall be necessary.

45 (5) Resolve administrative, jurisdictional, operational, program, or policy conflicts among
46 departments and their executive staffs and make necessary recommendations to the governor.

47 (6) Assure continued progress toward improving the quality, the economy, the accountability and the
48 efficiency of state-administered health and human services. In this capacity, the secretary shall:

49 (i) Direct implementation of reforms in the human resources practices of the departments that
50 streamline and upgrade services, achieve greater economies of scale and establish the coordinated system

1 of the staff education, cross- training, and career development services necessary to recruit and retain a
2 highly-skilled, responsive, and engaged health and human services workforce;

3 (ii) Encourage the departments to utilize consumer-centered approaches to service design and
4 delivery that expand their capacity to respond efficiently and responsibly to the diverse and changing
5 needs of the people and communities they serve;

6 (iii) Develop all opportunities to maximize resources by leveraging the state's purchasing power,
7 centralizing fiscal service functions related to budget, finance, and procurement, centralizing
8 communication, policy analysis and planning, and information systems and data management, pursuing
9 alternative funding sources through grants, awards and partnerships and securing all available federal
10 financial participation for programs and services provided through the departments; ~~and~~

11 (iv) Improve the coordination and efficiency of health and human services legal functions by
12 centralizing adjudicative and legal services and overseeing their timely and judicious administration- ;

13 (v) Facilitate the rebalancing of the long term system by creating an assessment and coordination
14 organization or unit for the expressed purpose of developing and implementing procedures across
15 departments that ensure that the appropriate publicly-funded health services are provided at the right time
16 and in the most appropriate and least restrictive setting; and

17 (vi) Strengthen health and human services program integrity, quality control and collections, and
18 recovery activities by consolidating functions within the office in a single unit that ensures all affected
19 parties pay their fair share of the cost of services and are aware of alternative financing.

20 (vii) Broaden access to publicly funded food and nutrition services by consolidating agency programs
21 and initiatives to eliminate duplication and overlap and improve the availability and quality of services;
22 and

23 **(viii) Assure protective services are available to vulnerable elders and adults with developmental**
24 **and other disabilities by reorganizing existing services, establishing new services where gaps exist**
25 **and centralizing administrative responsibility for oversight of all related initiatives and programs.**

26 (7) Prepare and integrate comprehensive budgets for the health and human services departments and
27 any other functions and duties assigned to the office. The budgets shall be submitted to the state budget
28 office by the secretary, for consideration by the governor, on behalf of the state's health and human
29 services in accordance with the provisions set forth in § 35-3-4 of the Rhode Island general laws.

30 (8) Utilize objective data to evaluate health and human services policy goals, resource use and
31 outcome evaluation and to perform short and long-term policy planning and development.

32 (9) Establishment of an integrated approach to interdepartmental information and data management
33 that complements and furthers the goals of the CHOICES initiative and that will facilitate the transition to
34 consumer-centered system of state administered health and human services.

35 (10) At the direction of the governor or the general assembly, conduct independent reviews of state-
36 administered health and human services programs, policies and related agency actions and activities and
37 assist the department directors in identifying strategies to address any issues or areas of concern that may
38 emerge thereof. The department directors shall provide any information and assistance deemed necessary
39 by the secretary when undertaking such independent reviews.

40 (11) Provide regular and timely reports to the governor and make recommendations with respect to
41 the state's health and human services agenda.

42 (12) Employ such personnel and contract for such consulting services as may be required to perform
43 the powers and duties lawfully conferred upon the secretary.

44 (13) Implement the provisions of any general or public law or regulation related to the disclosure,
45 confidentiality and privacy of any information or records, in the possession or under the control of the
46 executive office or the departments assigned to the executive office, that may be developed or acquired
47 for purposes directly connected with the secretary's duties set forth herein.

48 (14) Hold the director of each health and human services department accountable for their
49 administrative, fiscal and program actions in the conduct of the respective powers and duties of their
50 agencies.

1 **42-7.2-6.1. Transfer of powers and functions.** -- (a) There are hereby transferred to the executive
2 office of health and human services the powers and functions of the departments with respect to the
3 following:

4 (1) By July 1, 2007, fiscal services including budget preparation and review, financial management,
5 purchasing and accounting and any related functions and duties deemed necessary by the secretary;

6 (2) By July 1, 2007, legal services including applying and interpreting the law, oversight to the rule-
7 making process, and administrative adjudication duties and any related functions and duties deemed
8 necessary by the secretary;

9 (3) By September 1, 2007, communications including those functions and services related to
10 government relations, public education and outreach and media relations and any related functions and
11 duties deemed necessary by the secretary;

12 (4) By March 1, 2008, policy analysis and planning including those functions and services related to
13 the policy development, planning and evaluation and any related functions and duties deemed necessary
14 by the secretary; ~~and~~

15 (5) By June 30, 2008, information systems and data management including the financing,
16 development and maintenance of all data-bases and information systems and platforms as well as any
17 related operations deemed necessary by the secretary;

18 (6) By October 1, 2009, assessment and coordination for long-term care including those functions
19 related to determining level of care or need for services, development of individual service/care plans and
20 planning, identification of service options, the pricing of service options and choice counseling; and

21 (7) By October 1, 2009, program integrity, quality control and collection and recovery functions
22 including any that detect fraud and abuse or assure that beneficiaries, providers, and third-parties pay their
23 fair share of the cost of services, as well as any that promote alternatives to publicly financed services,
24 such as the long-term care health insurance partnership.

25 **(8) By January 1, 2011, client protective services including any such services provided to**
26 **children, elders and adults with developmental and other disabilities;**

27 (9) By March 1, 2010, administrative management of food and nutritional services including food
28 stamps, WIC and any other such programs or initiatives in which operational efficiencies that improve
29 access may be achieved through greater consolidation or coordination of functions.

30 (b) The secretary shall determine in collaboration with the department directors whether the officers,
31 employees, agencies, advisory councils, committees, commissions, and task forces of the departments
32 who were performing such functions shall be transferred to the office. ~~Duties that are incidental to the~~
33 ~~performance of the functions transferred to the office in subpart (a) shall remain with the departments~~
34 ~~providing that the employees responsible thereof are performing functions that have not been transferred.~~

35 (c) In the transference of such functions, the secretary shall be responsible for ensuring:

36 (1) Minimal disruption of services to consumers;

37 (2) Elimination of duplication of functions and operations;

38 (3) Services are coordinated and functions are consolidated where appropriate;

39 (4) Clear lines of authority are delineated and followed;

40 (5) Cost-savings are achieved whenever feasible;

41 (6) Program application and eligibility determination processes are coordinated and, where feasible,
42 integrated; and

43 (7) State and federal funds available to the office and the entities therein are allocated and utilized
44 for service delivery to the fullest extent possible.

45 (d) Except as provided herein, no provision of this chapter or application thereof shall be construed
46 to limit or otherwise restrict the departments of children, youth and families, human services, elderly
47 affairs, health, and mental health, retardation, and hospitals from fulfilling any statutory requirement or
48 complying with any regulation deemed otherwise valid.

49 (e) The secretary shall prepare and submit to the leadership of the house and senate finance
50 committees, by no later than January 1, 2010, a plan for restructuring functional responsibilities across the
51 departments to establish a consumer centered integrated system of health and human services that

1 provides high quality and cost-effective services at the right time and in the right setting across the life-
2 cycle.

3

DRAFT LEGISTRATION

1 AN ACT RELATING TO CLIENT PROTECTIVE SERVICES

2 It is enacted by the General Assembly as follows:

3 SECTION 1. Sections 11-5-10.2, 11-5-11, 11-5-12 of Chapter 11 the General Laws entitled "Assaults"
4 are hereby amended to read as follows:

5 **11-5-10.2. Assault on persons with severe impairments causing serious bodily injury.**

6 (a) Any person who shall commit an assault or battery, or both, upon a person, with severe
7 impairments causing serious bodily injury, shall be deemed to have committed a felony and shall be
8 imprisoned for not less than two (2) years but not more than twenty (20) years, or fined not more than five
9 thousand dollars (\$5,000), or both. Every person so convicted shall be ordered to make restitution to the
10 victim of the offense or to perform up to five hundred (500) hours of public community restitution work,
11 or both, or any combination of them imposed by the sentencing judge. The court may not waive the
12 obligation to make restitution and/or public community restitution work. The restitution and/or public
13 community restitution work shall be in addition to any fine or sentence which may be imposed and not in
14 lieu of the fine or sentence.

15 (b) "Serious bodily injury" means physical injury that:

- 16 (1) Creates a substantial risk of death, serious disfigurement;
- 17 (2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or
- 18 (3) Causes serious permanent disfigurement.

19 (c) For the purposes of this section:

- 20 (1) "Adult" means a person over the age of eighteen (18).
- 21 (2) "Major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
22 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
23 economic self-sufficiency.

24 (3) "Person with severe impairments" means a child or adult who has a disability which is attributable
25 to a mental or physical impairment or combination of mental and physical impairments and results in
26 substantial functional limitations in one or more major life activities.

27 (d) Violations of this section shall be reported to the local police department.

28 (e) After ~~July 1, 2007~~ January 1, 2011 pursuant to § 40-8.5-2, the local police department may request
29 the ~~department of mental health, retardation, and hospitals~~ executive office of health and human services
30 provide crisis intervention services for the adult victim with severe impairments when:

- 31 (1) Necessary to ensure the immediate health and safety of the adult victim; and
- 32 (2) The adult victim relies on the person believed to have committed the assault and/or battery, for
33 assistance in performing three (3) or more major life activities.

34 **11-5-11. Assault on persons with severe impairments.**

35 (a) For the purposes of this section:

- 36 (1) "adult" means a person over the age of eighteen (18).
- 37 (2) "major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
38 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
39 economic self-sufficiency.

40 (3) "person with severe impairments" means a child or adult who has a disability which is attributable
41 to a mental or physical impairment or combination of mental and physical impairments which results in a
42 substantial limitation on the person's ability to function independently in the family or community and in
43 one or more major life activities.

1 (b) Any person who shall commit an assault and battery upon a person who is severely impaired as
2 defined in subsection (a) of this section, causing bodily injury, shall be deemed to have committed a
3 felony and shall be imprisoned not exceeding five (5) years, or fined not exceeding two thousand dollars
4 (\$2,000), or both.

5 (c) Violations of this section shall be reported to the local police department.

6 (d) After ~~July 1, 2007~~ January 1, 2011 pursuant to § 40-8.5-2, the local police department may request
7 the ~~department of mental health, retardation, and hospitals~~ executive office of health and human services
8 provide crisis intervention services for the adult victim with severe impairments when:

9 (1) Necessary to ensure the immediate health and safety of the adult victim; and

10 (2) The adult victim relies on the person believed to have committed the assault and/or battery, for
11 assistance in performing three (3) or more major life activities.

12 **11-5-12. Abuse, neglect and/or exploitation of adults with severe impairments.**

13 (a) Any person primarily responsible for the care of an adult with severe impairments who shall
14 willfully and knowingly abuse, neglect or exploit that adult shall be subject to a fine of not more than two
15 thousand dollars (\$2,000), or imprisoned not more than five (5) years, or both, and ordered to make full
16 restitution of any funds as the result of any exploitation which results in the misappropriation of funds.
17 Every person convicted of or placed on probation for violation of this section shall be ordered by the
18 sentencing judge to attend appropriate professional counseling to address his or her abusive behavior.

19 (b) As used in this section:

20 (1) "Abuse" means the subjection of an adult with a severe impairment to willful infliction of physical
21 pain, willful deprivation of services necessary to maintain the physical or mental health of the person, or
22 unreasonable confinement.

23 (2) "Adult with severe impairments" means a person over the age of eighteen (18) who has a disability
24 which is attributable to a mental or physical impairment or combination of mental and physical
25 impairments and results in substantial functional limitations in one or more of the following areas of
26 major life activity: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or expressive
27 language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii) economic self-
28 sufficiency.

29 (3) "Exploitation" means an act or process of taking pecuniary advantage of impaired persons by use of
30 undue influence, harassment, duress, deception, false representation, false pretenses, or misappropriation
31 of funds.

32 (4) "Neglect" means the willful refusal to provide services necessary to maintain the physical or mental
33 health of an adult with severe impairments.

34 (5) "Person primarily responsible for care" or "caregiver" means any person who is for a significant
35 period of time the primary caregiver or is primarily responsible for the management of the funds of an
36 adult with severe impairments.

37 (c) Violations of this section shall be reported to the local police department.

38 (d) After ~~July 1, 2007~~ January 1, 2011 pursuant to section 40-8.5-2, the local police department may
39 request the ~~department of mental health, retardation, and hospitals~~ executive office of health and human
40 services provide crisis intervention services for the adult victim with severe impairments when:

41 (1) necessary to ensure the immediate health and safety of the adult victim; and

42 (2) the adult victim relies on the person believed to have committed the abuse, neglect and/or
43 exploitation, for assistance in performing three (3) or more major life activities.

44 (e) Any person who fails to report known or suspected abuse or neglect shall be guilty of a
45 misdemeanor and upon conviction shall be subject to a fine of not more than five hundred dollars (\$500).

1 (f) Nothing in this section shall be interpreted to apply to the discontinuance of life-support systems or
2 life-sustaining treatment for an adult for whom, if the treatment were terminated, death may result.

3 (g) Any person participating in good faith in making a report pursuant to this chapter, excluding any
4 perpetrator or conspirator of the acts, shall have immunity from any civil liability that might otherwise be
5 incurred or imposed.

6 (h) Nothing in this section shall be interpreted to prohibit the use of any medical or psychological
7 treatment procedure designed and conducted in accordance with applicable professional standards when
8 performed by appropriately trained personnel under the supervision of a person or facility licensed or
9 approved by the state of Rhode Island and when any consent as is required by law has been obtained.

10 (i) Nothing in this chapter shall be construed to mean a person is abused or neglected for the sole
11 reason that the person is being furnished or relies upon treatment by spiritual means through prayer alone
12 in accordance with the tenets and practices of a church or religious denomination recognized by the laws
13 of this state.

14 (j) Nothing in this chapter shall be construed to mean a person is abused or neglected when the parent
15 or legal guardian of an adult with severe impairments, who is the person primarily responsible for care of
16 the adult, (1) decides, in good faith, not to accept support services from a governmental agency, which in
17 the opinion of the parent or legal guardian and the adult, is considered to be inappropriate or inconsistent
18 with the best interests of that adult; or (2) decides, in good faith, to reduce or discontinue assistance to that
19 adult who is developing, acquiring or practicing independent decision-making or living skills.

20 SECTION 2. Section 23-17-8.1 of Chapter 23-17.8 the General Laws entitled "Abuse in Health Care
21 Facilities" are hereby amended to read as follows:

22 **23-17.8-1. Definitions.**

23 (a) (1) "Abuse" means:

24 (i) Any assault as defined in chapter 5 of title 11, including, but not limited to, hitting, kicking,
25 pinching, slapping, or the pulling of hair; provided, however, unless it is required as an element of the
26 offense charged, it shall not be necessary to prove that the patient or resident was injured by the assault;

27 (ii) Any assault as defined in chapter 37 of title 11;

28 (iii) Any offense under chapter 10 of title 11;

29 (iv) Any conduct which harms or is likely to physically harm the patient or resident except where the
30 conduct is a part of the care and treatment, and in furtherance of the health and safety of the patient or
31 resident; or

32 (v) Intentionally engaging in a pattern of harassing conduct which causes or is likely to cause
33 emotional or psychological harm to the patient or resident, including but not limited to, ridiculing or
34 demeaning a patient or resident, making derogatory remarks to a patient or resident or cursing directed
35 towards a patient or resident, or threatening to inflict physical or emotional harm on a patient or resident.

36 (2) Nothing in this section shall be construed to prohibit the prosecution of any violator of this section
37 under any other chapter.

38 (b) ~~"Department" means the department of health when the incident occurs in a health care facility,
39 and the department of mental health, retardation, and hospitals when the incident occurs in a community
40 residence for people who are mentally retarded or persons with developmental disabilities.~~

41 (c) "Facility" means any health care facility or community residence for persons who are mentally
42 retarded, or persons with developmental disabilities as those terms are defined in this section. "Health care
43 facility" means any hospital or facility which provides long-term health care required to be licensed under
44 chapter 17 of this title, and any assisted living residence required to be licensed under chapter 17.4 of this
45 title, and any community residence whether privately or publicly owned. "Community residence" for
46 persons who are mentally retarded or persons with developmental disabilities means any residential

1 program licensed by the department of mental health, retardation, and hospitals which meets the definition
2 of a community residence as defined in § 40.1-24-1(2) and provides services to people who are mentally
3 retarded or persons with developmental disabilities.

4 (d) "High Managerial Agent" means an officer of a facility, the administrator and assistant
5 administrator of the facility, the director and assistant director of nursing services, or any other agent in a
6 position of comparable authority with respect to the formulation of the policies of the facility or the
7 supervision in a managerial capacity of subordinate employees.

8 (e) "Mistreatment" means the inappropriate use of medications, isolation, or use of physical or
9 chemical restraints:

10 (1) As punishment;

11 (2) For staff convenience;

12 (3) As a substitute for treatment or care;

13 (4) In conflict with a physician's order; or

14 (5) In quantities which inhibit effective care or treatment, or which harms or is likely to harm the
15 patient or resident.

16 (f) "Neglect" means the intentional failure to provide treatment, care, goods, and services necessary to
17 maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of
18 treatment or care prescribed by the physician of the patient or resident, or the intentional failure to report
19 patient or resident health problems or changes in health problems or changes in health conditions to an
20 immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient or
21 resident including, but not limited to toileting, bathing, meals, and safety. No person shall be considered
22 to be neglected for the sole reason that he or she relies on or is being furnished treatment in accordance
23 with the tenets and teachings of a well-recognized church or denomination by a duly-accredited
24 practitioner of a well-recognized church or denomination.

25 (g) "Patient" means any person who is admitted to a facility for treatment or care, while "resident"
26 means any person who maintains their residence or domicile, on either a temporary or permanent basis, in
27 a facility.

28 (h) "Person" means any natural person, corporation, partnership, unincorporated association, or other
29 business entity.

30 (i) "Immediate jeopardy" means a situation in which the nursing facility's alleged noncompliance with
31 one or more state or federal requirements or conditions has caused, or is likely to cause serious injury,
32 harm, impairment or death to a resident; or shall be defined in accordance with 42 CFR 489 or any
33 subsequent applicable federal regulations.

34 (j) "Non-immediate jeopardy - high potential for harm" means a situation in which a nursing facility's
35 alleged noncompliance with one or more state or federal requirements or conditions may have caused
36 harm that negatively impacts the individual's mental, physical and/or psychosocial status; or shall be
37 defined in accordance with 42 CFR 489 or any subsequent applicable federal regulations.

38 (k) "Non-immediate jeopardy - medium potential for harm" means a situation in which a nursing
39 facility's alleged noncompliance with one or more state or federal requirements or conditions has caused
40 or may have caused harm that is of limited consequence and does not significantly impair the individual's
41 mental, physical and/or psychosocial status to function; or shall be defined in accordance with 42 CFR
42 489 or any subsequent applicable federal regulations.

43 (l) "Non-immediate jeopardy - low potential for harm" means a situation in which a nursing facility's
44 alleged noncompliance with one or more state or federal requirements or conditions may have caused
45 mental, physical and/or psychosocial discomfort that does not constitute injury or damage; or shall be
46 defined in accordance with 42 CFR 489 or any subsequent applicable federal regulations.

1 **23-17.8-2. Duty to report.**

2 (a) Any physician, medical intern, registered nurse, licensed practical nurse, nurse's aide, orderly,
3 certified nursing assistant, medical examiner, dentist, optometrist, optician, chiropractor, podiatrist,
4 coroner, police officer, emergency medical technician, fire-fighter, speech pathologist, audiologist, social
5 worker, pharmacist, physical or occupational therapist, or health officer, or any person, within the scope
6 of their employment at a facility or in their professional capacity, who has knowledge of or reasonable
7 cause to believe that a patient or resident in a facility has been abused, mistreated, or neglected shall
8 make, within twenty-four (24) hours or by the end of the next business day, a telephone report to the
9 ~~director of the health~~ secretary executive office of health and human services or his or her designee ~~for~~
10 ~~those incidents involving health care facilities, and in addition to the office of the state long term~~
11 ~~care ombudsperson for those incidents involving nursing facilities, assisted living residences, home care~~
12 ~~and home nursing care providers, veterans' homes and long term care units in Eleanor Slater Hospital, or~~
13 ~~to the director of the department of mental health, retardation and hospitals or his or her designee for~~
14 ~~those incidents involving community residences for people who are mentally retarded or persons with~~
15 ~~developmental disabilities.~~ The report shall contain:

16 (1) The name, address, telephone number, occupation, and employer's address and the phone number of
17 the person reporting;

18 (2) The name and address of the patient or resident who is believed to be the victim of the abuse,
19 mistreatment, or neglect;

20 (3) The details, observations, and beliefs concerning the incident(s);

21 (4) Any statements regarding the incident made by the patient or resident and to whom they were
22 made;

23 (5) The date, time, and place of the incident;

24 (6) The name of any individual(s) believed to have knowledge of the incident;

25 (7) The name of any individual(s) believed to have been responsible for the incident.

26 (b) In addition to those persons required to report pursuant to this section, any other person may make
27 a report if that person has reasonable cause to believe that a patient or resident of a facility has been
28 abused, mistreated, or neglected.

29 (c) Any person required to make a report pursuant to this section shall be deemed to have complied
30 with these requirements if a report is made to a high managerial agent of the facility in which the alleged
31 incident occurred. Once notified, the high managerial agent shall be required to meet all reporting
32 requirements of this section within the time frames specified by this chapter.

33 (d) Telephone reports made pursuant to subsection (a) shall be followed-up within three (3) business
34 days with a written report.

35 **23-17.8-3. Penalty - Failure to report.**

36 (a) Any person required to make a report as provided by § 23-17.8-2 and who fails to do so, shall be
37 guilty of a misdemeanor and be punished by a fine of not more than five hundred dollars (\$500).

38 (b) Any person who alters or changes without authorization or destroys or renders unavailable a report
39 made by another pursuant to § 23-17.8-2 shall be deemed guilty of a misdemeanor and be fined not more
40 than five hundred dollars (\$500).

41 (c) Any person who attempts to induce another to fail to report an incident of abuse, mistreatment, or
42 neglect shall be deemed guilty of a misdemeanor and be punished by a fine of not more than one thousand
43 dollars (\$1,000), or imprisoned not more than one year, or both.

44 (d) Any person being a high managerial agent who fails to report an incident of abuse, mistreatment,
45 or neglect after another has reported an incident of abuse, neglect or mistreatment to an appropriate agent

1 pursuant to § 23-17.8-2 shall be guilty of a misdemeanor and shall be fined not more than one thousand
2 dollars (\$1,000), or imprisoned for more than one year, or both.

3 **23-17.8-3.1. Physician's, certified registered nurse practitioner's and physician assistant's report**
4 **of examination - Duty of facility.**

5 Whenever a facility shall receive a report by a person other than a physician or a certified registered
6 nurse practitioner or physician assistant that a patient or resident of the facility has been harmed as a result
7 of abuse, neglect, or mistreatment, the facility shall have the patient examined by a licensed physician or a
8 certified registered nurse practitioner or physician assistant. It shall be mandatory for the physician or
9 certified registered nurse practitioner or physician assistant to make a preliminary report of his or her
10 findings to the secretary executive office of health and human services ~~department of health for a health~~
11 ~~care facility, or to the department of mental health, retardation and hospitals for a community residence~~
12 ~~for people who are mentally retarded or persons with developmental disabilities and to the facility~~ within
13 forty-eight (48) hours after his or her examination, and a written report within five (5) days after his or her
14 examination.

15 **23-17.8-4. Immunity from liability.**

16 (a) Any person who in good faith makes an oral or written report pursuant to § 23-17.8-2, excluding
17 any perpetrator or conspirator of the patient abuse, mistreatment, or neglect, shall have immunity from
18 any liability, civil or criminal, that might be incurred as a result of having made the report. No facility
19 shall discharge or in any manner discriminate or retaliate against any person who in good faith makes a
20 report, testifies, or is about to testify in any proceeding about the abuse, mistreatment, or neglect of
21 patients or residents in the facilities.

22 (b) No facility shall discharge, threaten, or in any manner discriminate or retaliate against any
23 employee regarding the employee's compensation, terms, conditions, location, duration, or privileges of
24 employment because:

25 (1) The employee, or a person acting on behalf of the employee, reports or is about to report to a public
26 body, verbally or in writing, or who, in good faith, makes a report, testifies, or is about to testify in any
27 proceeding, about the abuse, mistreatment, or neglect of patients or residents in the facility, unless the
28 employee knows or has reason to know that the report is false; or

29 (2) An employee is requested by a public body to testify or participate in an investigation, hearing, or
30 inquiry held by that public body, or a court action.

31 (c) For the purposes of this section, "public body" means all of the following:

32 (1) A state officer, employee, agency, department, division, bureau, board, commission, council,
33 authority, or other body in the executive branch of state government.

34 (2) An agency, board, commission, council, member, or employee of the legislative branch of state
35 government.

36 (3) A law enforcement agency or any member or employee of a law enforcement agency.

37 (4) The judiciary and any member or employee of the judiciary.

38 **23-17.8-5. Non-retaliation or discrimination.**

39 (a) A person who alleges a violation of this chapter may bring a civil action for appropriate injunctive
40 relief, damages, or both within three (3) years after the occurrence of the alleged violation of § 23-17.8-
41 4.

42 (b) A facility which discharges, discriminates, or retaliates against a person who is about to make a
43 report, makes a report, testifies, or is about to testify in any proceeding shall be liable to the person so
44 discharged, discriminated, or retaliated against, for treble damages, costs, and attorneys' fees. Where a
45 facility discharges, demotes, or retaliates by any other means against a person after he or she has made a
46 report, testified, or was subpoenaed to testify as a result of a report required by this chapter, there shall be

1 a rebuttable presumption that the facility discharged, demoted, or retaliated against that person as a result
2 of his or her report or testimony.

3 (c) Any action commenced pursuant to this section may be brought in the superior court for the county
4 where the alleged violation occurred, the county where the complainant resides, or the county where the
5 person/facility against whom the civil complaint is filed resides or has their principal place of business.

6 (d) An employee shall show by clear and convincing evidence that he or she or a person acting on his
7 or her behalf was about to report, reported, was about to testify, or testified, verbally or in writing, about a
8 violation of this chapter.

9 (e) A court, in rendering a judgment in an action brought under § 23-17.8-4 shall order, as the court
10 considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of
11 fringe benefits and seniority rights, treble damages, or any combination of these remedies. A court shall
12 also award the complainant the costs of litigation, including attorneys' fees. This section shall not be
13 construed to diminish or impair the rights of a person under any collective bargaining agreement.

14 **23-17.8-9. Duties of the secretary executive office of health and human services ~~directors of the~~
15 ~~department of health and the department of mental health, retardation, and hospitals.~~**

16 The secretary executive office of health and human services ~~directors of the department of health and~~
17 ~~the department of mental health, retardation and hospitals~~ or their his or her designee shall:

18 (1) Immediately notify the attorney general or his or her designee upon receipt of an oral or written
19 report made pursuant to § 23-17.8-2;

20 (2) Investigate and evaluate the information reported in the reports. The investigation and evaluation
21 shall be made within twenty-four (24) hours if the department has reasonable cause to believe the patient's
22 or resident's health or safety is in "immediate jeopardy"; within seven (7) days for reports deemed by the
23 department to be of "non-immediate jeopardy - high potential for harm"; within twenty-one (21) days for
24 reports deemed by the department to be of "non-immediate jeopardy - medium potential for harm"; and
25 within sixty (60) days for reports deemed by the department to be of "non-immediate jeopardy - low
26 potential for harm." The investigation shall include a visit to the facility, an interview with the patient or
27 resident allegedly abused, mistreated, or neglected, a determination of the nature, extent, and cause or
28 causes of the injuries, the identity of the person or persons responsible for the injuries, and all other
29 pertinent facts. The determination shall be in writing;

30 (3) Evaluate the environment at the facility named in the report and make a written determination of
31 the risk of physical or emotional injury to any other patients or residents in the same facility;

32 (4) Forward to the attorney general within a reasonable time after a case is initially reported pursuant to
33 § 23-17.8-2, subject to subdivision (1), a summary of the findings and recommendations on each case;

34 (5) If the secretary or the secretary's ~~director or the director's~~ designee has reasonable cause to believe
35 that a patient or resident has died as a result of abuse, mistreatment, or neglect, immediately report the
36 death to the attorney general and the office of the medical examiner. The office of the medical examiner
37 shall investigate the report and communicate its preliminary findings, orally within seventy-two (72)
38 hours, and in writing within seven (7) working days, to the attorney general. The office of the medical
39 examiner shall also communicate its final findings and conclusions, with the basis for its final findings
40 and conclusions, to the same parties within sixty (60) days;

41 (6) Promulgate any regulations that may be necessary to implement the provisions of this chapter;

42 (7) Maintain a file of the written reports prepared pursuant to this chapter. The written reports shall be
43 confidential, but shall be released to the attorney general or to a court of competent jurisdiction, and may
44 be released, upon written request and with the approval of the secretary or the secretary's ~~director's~~ or his
45 or her designee, to the patient or resident, counsel, the reporting person or agency, the appropriate review
46 board, or a social worker assigned to the case.

1 SECTION 3. Section 40-8.5-12 of Chapter 40-8.5 the General Laws entitled “Health Care for Elderly
2 and Disabled Residents Act” are hereby amended to read as follows:

3 **40-8.5-2. Services for adult victims with severe impairments of abuse, neglect and/or exploitation.**

4 (a) As used in this section the terms:

5 (1) "Adult victim with severe impairments" means:

6 (i) A person over the age of eighteen (18) who has a disability which is attributable to a mental or
7 physical impairment or combination of mental and physical impairments and results in substantial
8 functional limitations in three (3) or more major life activities;

9 (ii) Is an alleged victim of abuse, neglect or exploitation pursuant to § 11-5-12; or assault pursuant to
10 § 11-5-10.2 or 11-5-11 by a caregiver of the victim;

11 (iii) The adult victim relies on the person believed to have committed the abuse, neglect, and/or
12 exploitation, for assistance in performing three (3) or more major life activities; and

13 (iv) Crisis intervention services are necessary to ensure the immediate health and safety of the adult
14 victim.

15 (2) "Crisis intervention services" means the short term provision of health care and residential services
16 in the immediate hours and days following the abuse, neglect and/or exploitation of an adult victim with
17 severe impairments;

18 (3) "Major life activities" mean: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
19 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
20 economic self-sufficiency; and

21 (4) "Supportive services" means longer term support services for an adult victim with severe
22 impairments, and when appropriate that victim's family.

23 (b) After ~~July 1, 2007~~ January 1, 2011, local police departments may request ~~department of mental~~
24 ~~health, retardation, and hospitals~~ executive office of health and human services provide crisis intervention
25 services for the adult victim with severe impairments when:

26 (1) Necessary to ensure the immediate health and safety of the adult victim; and

27 (2) The adult victim with severe impairments relies on the person believed to have committed the
28 abuse, neglect and/or exploitation for assistance in performing three (3) or more major life activities.

29 (c) (1) If the ~~department of mental health, retardation, and hospitals~~ executive office of health and
30 human services determines that longer term supportive services are necessary, the victim and when
31 appropriate that victim's family will be referred to the public and private agencies and departments whose
32 supportive services are within its statutory and/or regulatory responsibility, as are needed by the victim.

33 (2) In developing the supportive services care plan, the adult victim with severe impairments' rights to
34 self-determination and lifestyle preferences commensurate with his or her needs shall be of prime
35 consideration.

36 (3) If the adult victim with severe impairments withdraws consent or refuses to accept crisis
37 intervention or supportive services, the services shall not be provided.

38 (d) The department of human services is hereby authorized to seek federal approval of a state plan
39 amendment to its title XIX state plan to initiate crisis intervention services and support services for adults
40 who qualify for title XIX services and are victims of severe impairments of abuse, assault, neglect or
41 exploitation.

42 SECTION 4. Sections 40.1-27-2, 40.1-27-3, and 40.1-27-5 of Chapter 40.1-27 the General Laws
43 entitled “Penalties for Abuse of Persons with Developmental Disabilities” are hereby amended to read as
44 follows:

45 **40.1-27-2. Duty to report.**

1 (a) Any person within the scope of their employment at a program or in their professional capacity
2 who has knowledge of or reasonable cause to believe that a participant in a program has been abused,
3 mistreated or neglected shall make, within twenty-four (24) hours or by the end of the next business day, a
4 written report to the ~~director secretary of the department of mental health, retardation, and hospitals~~
5 executive office of health and human services or his or her designee. The report shall contain:

6 (1) The name, address, telephone number, occupation, and employer's address and the phone number of
7 the person reporting;

8 (2) The name and address of the participant who is believed to be the victim of the abuse, mistreatment,
9 or neglect;

10 (3) The details, observations, and beliefs concerning the incident(s);

11 (4) Any statements regarding the incident made by the participant and to whom they were made;

12 (5) The date, time, and place of the incident;

13 (6) The name of any individual(s) believed to have knowledge of the incident; and

14 (7) The name of any individual(s) believed to have been responsible for the incident.

15 (b) In addition to those persons required to report pursuant to this section, any other person may make
16 a report if that person has reasonable cause to believe that a participant has been abused, mistreated, or
17 neglected.

18 **40.1-27-3. Duties of the ~~director secretary of the department of mental health, retardation, and~~
19 ~~hospitals~~ executive office of health and human services.**

20 The ~~director secretary of the department of mental health, retardation, and hospitals~~ executive office of
21 health and human services or his or her designee shall:

22 (1) Notify the attorney general or his or her designee, the chair of the program's human rights
23 committee forthwith upon receipt of an oral or written report made pursuant to § 40.1-27-2;

24 (2) Investigate and evaluate or cause to be investigated and evaluated the information reported in those
25 reports. The investigation and evaluation shall be made within twenty-four (24) hours if the ~~director~~
26 ~~secretary of the department of mental health, retardation, and hospitals~~ executive office of health and
27 human services has reasonable cause to believe the participant's health or safety is in immediate danger of
28 further abuse or neglect and within seven (7) days for all other reports. The investigations shall include a
29 visit to the program, an interview with the participant allegedly abused, mistreated or neglected, an
30 interview with all witnesses to the alleged incident, a determination of the nature, extent, and cause or
31 causes of the injuries, the identity of the person or persons responsible therefor, all other pertinent facts
32 and recommendations to prevent further abuse, mistreatment or neglect of the participant or other
33 program participants. The determination shall be in writing;

34 (3) Evaluate the environment in the program named in the report and make a written determination of
35 the risk of physical or emotional injury to any other participants in the same program;

36 (4) Forward to the attorney general and the chair of the program's human rights committee within
37 fifteen (15) days after a case is initially reported pursuant to § 40.1-27-2 a summary of the findings and
38 recommendations on each case;

39 (5) If the ~~director secretary of the department of mental health, retardation, and hospitals~~ executive
40 office of health and human services has reasonable cause to believe that a participant had died as a result
41 of abuse, mistreatment, or neglect, immediately report the death to the attorney general and to the office
42 of the medical examiner. The office of the medical examiner shall investigate the report and communicate
43 its preliminary findings, orally within seventy-two (72) hours, and in writing within seven (7) working
44 days to the attorney general and to the ~~department of mental health, retardation, and hospitals~~ executive
45 office of health and human services. The office of the medical examiner shall also communicate its final
46 findings and conclusions, with the basis therefore to the same parties within sixty (60) days;

1 (6) Promulgate such regulations as may be necessary to implement the provisions of this chapter; and
2 (7) Maintain a file of the written reports prepared pursuant to this chapter. The written reports shall be
3 confidential, but shall be released to the attorney general, to a court of competent jurisdiction, and upon
4 written request to the participant, his or her counsel, the reporting person or agency, the appropriate
5 review board or a social worker assigned to the case.

6 **40.1-27-5. Physician's report of examination - Duty of program.**

7 Whenever a program shall receive a report by a person other than a physician that a participant has
8 been harmed as a result of abuse, neglect, or mistreatment, the program shall have the patient examined
9 by a licensed physician. It shall be mandatory for the physician to make a preliminary report of his or her
10 findings to the ~~director~~ secretary of the ~~department of mental health, retardation, and hospitals~~ executive
11 office of health and human services and to the program within forty-eight (48) hours after his or her
12 examination, and a written report within five (5) days after his or her examination.

13 SECTION 5. This act shall take effect on January 1, 2011.
14

MOTION: To accept the draft Client Protective Services legislation as proposed, and invite representatives of the Executive Office of Health & Human Services, MHRH, Department of Health, to the January 11th Committee meeting. SB/GW passed unanimously

2. Enacting of the John J. MacDonald Jr. Transportation Initiative [accessible taxicabs]

1 AN ACT RELATING TO WHEELCHAIR ACCESSIBLE TRANSPORTATION

2 Introduced By:
3 Date Introduced:
4 Referred To:

5 It is enacted by the General Assembly as follows:

6 SECTION 1. Chapter 39-18 of the General Laws entitled "Rhode Island Public Transit Authority" is
7 hereby amended by adding the following section:

8 **§ 39-18-24. John J. MacDonald, Jr. Transportation Initiative.**

9 (a) The Rhode Island Public Transit Authority is authorized and directed, in consultation with the division
10 of public utilities and carriers and the governor's commission on disabilities, to develop the "John J.
11 MacDonald, Jr. Transportation Initiative" for a statewide federally funded "New Freedom Program" to
12 reduce barriers to transportation services and expand the transportation mobility options available to
13 people with disabilities that need wheelchair accessible transportation beyond the requirements of the
14 Americans with Disabilities Act (ADA) of 1990, by September 30, 2010.

15 (b) The "John J. MacDonald, Jr. Transportation Initiative" shall incorporate the recommendations from the
16 February 2008 Report "A Coordinated Plan for Public Transit-Human Services Transportation in RI"
17 objective 4 Improve Transportation Options "Beyond the ADA" Potential Strategies & Projects,
18 including, but not be limited to strategies to:

19 (i) utilize Federal funds that are available through the New Freedom Program, authorized in Safe
20 Accountable Flexible and Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU) to
21 support new public transportation services and public transportation alternatives beyond those required by
22 the Americans with Disabilities Act (ADA) of 1990 including:

23 (A) Eighty percent (80%) federal match for the purchase of wheelchair accessible taxicabs or public
24 motor vehicles to provide on-demand wheelchair accessible service throughout RI and especially at TF
25 Green Airport;

26 (B) Fifty percent (50%) of the planning and operation of a statewide transportation program for
27 individuals who need wheelchair accessible vehicles to support mobility management and coordination

1 programs (including planning activities, service promotion, individualized travel training, information
2 centers, and planning for enhanced technologies); and improve airport and train station information on
3 accessible transit;
4 (ii) publicize the use of tax credits by operators of wheelchair accessible taxicabs or public motor vehicles
5 for the non-federal twenty percent (20%) match towards the purchase of wheelchair accessible vehicles
6 including:
7 (A) § 44-54-1(5) Disabled Access Credit For Small Businesses – Providing specialized transportation
8 services to employees or customers with mobility impairments;
9 (B) § 44-18-30(19) Gross receipts exempt from sales and use taxes – Motor vehicle and adaptive
10 equipment for persons with disabilities; and
11 (C) Section 44 of the Internal Revenue Code assists small businesses cover ADA-related eligible access
12 expenditures including the removal of architectural barriers in facilities or vehicles equal to 50% of the
13 eligible access expenditures in a year, up to a maximum expenditure of \$10,250.
14 (iii) The owner/operators of the wheelchair accessible taxicabs or public motor vehicles, and not the
15 Rhode Island Public Transit Authority, shall be responsible for the non-federal match for purchasing and
16 operating the wheelchair accessible taxicabs or public motor vehicles.
17 (c) The Rhode Island Public Transit Authority is authorized and directed to begin implementation of the
18 “John J. MacDonald, Jr. Transportation Initiative” on or before January 1, 2011.

19 SECTION 2. This act shall take effect upon passage.
20

<p>MOTION: To accept the draft Act Relating to Wheelchair Accessible Transportation as <i>proposed</i> and to invite representatives of the RI Public Transit Authority to the January 11th Committee meeting TF/LD passed, BI abstained.</p>
<p>5. Mandate pedestrian crosswalks have curb cuts on both sides</p>

21
22 AN ACT RELATING TO CROSSWALKS

23 It is enacted by the General Assembly as follows:

24 SECTION 1. Chapter 24-5 of the General Laws entitled “Maintenance of Town Highways” is hereby
25 amended to read as follows:

26 **CHAPTER 5 MAINTENANCE OF TOWN HIGHWAYS**

27 **24-5-1. Duty of town to maintain highways.**

28 (a) All highways, causeways, and bridges, except as provided by this chapter, lying and being within
29 the bounds of any town, shall be kept in repair and amended, from time to time, so that the highways,
30 causeways, and bridges may be safe and convenient for travelers with their teams, carts, and carriages at
31 all seasons of the year, at the proper charge and expense of the town, under the care and direction of the
32 town council of the town, provided that the state shall be responsible for the annual cleaning of all
33 sidewalks on all state highways, causeways, and bridges.

34 (b) In addition, the surfaces of all highways and causeways shall be maintained in such a state of
35 repair as to make them safe for bicycles.

36 (c) The construction and maintenance of sidewalks and curbs by all cities and towns shall be in
37 compliance of the state regulations promulgated by the director of transportation in section 42-13-1 (b).

38 SECTION 2. Section 42-13-1 of the General Laws entitled “Department of Transportation” is hereby
39 amended to read as follows

40 **42-13-1. Establishment - Head of departments - Powers.**

41 (a) There shall be a department of transportation. The head of the department shall be the director of
42 transportation, appointed by the governor with the advice and consent of the senate, who shall carry out

1 the provisions of this chapter and, except as otherwise provided by this title, the provisions of [chapters](#)
2 2 and 4 of title 1; chapters 8 and 10 of title 24; chapter 13 of title 31; chapter 12 of title 37; and of all other
3 general laws heretofore carried out by the director of public works and the department of public works,
4 the Rhode Island turnpike and bridge authority, and the council on highway safety. The director shall also
5 be responsible for preparation of short-range plans, project plans, and implementation programs for
6 transportation; for port and waterways facilities where the principal purpose is transportation and
7 management of port properties, warehouses, and state piers which function primarily as transportation
8 facilities; and for maintaining an adequate level of rail passenger and freight services, including the
9 administration of any financial or technical assistance which may be made available to operators of
10 railroad transportation facilities; provided, however, that all contracts for the construction, reconstruction,
11 maintenance, and repairs of all public roads and bridges, public buildings and all other properties of the
12 state government, and the purchase of all equipment, materials, and supplies used in accordance therewith
13 shall be negotiated by the purchasing agent in the department of administration.

14 (b) The director shall adopt and promulgate state regulations which will set standards for future state,
15 [city and town](#) construction and maintenance of sidewalks and curbs, in a manner which will make the use
16 of the sidewalks more easily accessible to people who are disabled, [including the installation of curb cuts](#)
17 [or ramps at both ends of a pedestrian crosswalk](#). The director shall adopt and promulgate a procedure to
18 process all claims pursuant to § 24-8-35, for damages to motor vehicles caused by potholes on state
19 highways and in all instances have the final determination as to the merits of each claim.

20 (c) The director shall promulgate and adopt regulations which will prohibit any contractors who have
21 been convicted of fraud, bid-rigging, or a violation of any state or federal antitrust law from bidding on
22 any construction projects administered by the department for a period of five (5) years from the date of
23 any of the above convictions.

[SECTION 2. This act shall take effect upon passage.](#)

MOTION: To accept the draft Act Relating To Crosswalks legislation as proposed, and invite representatives of the Department of Transportation to the January 11th Committee meeting. SB/LD passed unanimously

10. Increase permanent supportive housing and other community services for people with behavioral health concerns.

2009 -- H 5987

AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- HOUSING RESOURCES - NEIGHBORHOOD OPPORTUNITIES PROGRAM

Introduced By: Representatives Fox, Pacheco, Slater, Kennedy, and Almeida

Date Introduced: March 17, 2009

Referred To: House Finance

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Section 42-128-8 of the General Laws in Chapter 42-128 entitled "Rhode
1-2 Island Housing Resources Act of 1998" is hereby amended to read as follows:

1-3 42-128-8. Powers and duties. -- In order to provide housing opportunities for all Rhode
1-4 Islanders, to maintain the quality of housing in Rhode Island, and to coordinate and make
1-5 effective the housing responsibilities of the agencies and subdivisions of the state, the
1-6 commission shall have the following powers and duties:

1-7 (1) Policy, planning and coordination of state housing functions. - The commission shall
1-8 have the power and duty:

1-9 (i) To prepare and adopt the state's plans for housing, provided however that this

- 1-10 provision shall not be interpreted to contravene the prerogative of the state planning council to
1-11 adopt a state guide plan for housing.
- 1-12 (ii) To prepare, adopt, and issue the state's housing policy.
- 1-13 (iii) To conduct research on and make reports regarding housing issues in the state.
- 1-14 (iv) To advise the governor and general assembly on housing issues and to coordinate
1-15 housing activities among government agencies and agencies created by state law or providing
1-16 housing services under government programs.
- 1-17 (2) Establish, implement, and monitor state performance measures and guidelines for
1-18 housing programs. - The commission shall have the power and the duty:
- 2-1 (i) To promulgate performance measures and guidelines for housing programs conducted
2-2 under state law.
- 2-3 (ii) To monitor and evaluate housing responsibilities established by state law, and to
2-4 establish a process for annual reporting on the outcomes of the programs and investments of the
2-5 state in housing for low and moderate income people.
- 2-6 (iii) To hear and resolve disputes pertaining to housing issues.
- 2-7 (3) Administer the programs pertaining to housing resources that may be assigned by
2-8 state law. - The commission shall have the power and duty to administer programs for housing,
2-9 housing services, and community development, including, but not limited to, programs pertaining
2-10 to:
- 2-11 (i) Abandoned properties and the remediation of blighting conditions.
- 2-12 (ii) Lead abatement and to manage a lead hazard abatement program in cooperation with
2-13 the Rhode Island Housing and Mortgage Finance Corporation.
- 2-14 (iii) Services for the homeless.
- 2-15 (iv) Rental assistance.
- 2-16 (v) Community development.
- 2-17 (vi) Outreach, education and technical assistance services.
- 2-18 (vii) Assistance, including financial support, to non-profit organizations and community
2-19 development corporations.
- 2-20 (viii) Tax credits that assist in the provision of housing or foster community development
2-21 or that result in support to non-profit organizations performing functions to accomplish the
2-22 purposes of this chapter.
- 2-23 (ix) The neighborhood opportunities program, the purpose of which shall be to address
2-24 the housing and revitalization needs of the state's deteriorating neighborhoods. The neighborhood
2-25 opportunities program shall provide financial assistance to implement the following three (3)
2-26 components:
- 2-27 (a) The family affordable housing program, the purpose of which shall be to produce an
2-28 additional supply of housing units at rents affordable to families working at or near minimum
2-29 wage. State funding will leverage other resources for the production of housing, to create mixed
2-30 income housing, and to revitalize neighborhoods through the rehabilitation of existing
2-31 substandard units.
- 2-32 (b) The permanent supportive housing program, the purpose of which shall be to produce
2-33 additional housing for disabled individuals to be coupled with services and case management to
2-34 stabilize homeless individuals in permanent housing at affordable rents for persons receiving
3-1 supplemental social security income (SSI).
- 3-2 (c) The neighborhood revitalization program, the purpose of which shall be to provide
3-3 grants to local communities for renovation, demolition, and homeownership opportunities in

- 3-4 [neighborhoods designated for revitalization.](#)
- 3-5 [SECTION 2. There is hereby appropriated out of any money in the treasury not](#)
- 3-6 [otherwise appropriated for the fiscal year 2009-2010, the sum of seven million, five hundred](#)
- 3-7 [thousand dollars \(\\$7,500,000\) for the purpose of carrying out the provisions of this act, and the](#)
- 3-8 [state controller is hereby authorized to draw his orders upon the general treasurer for the payment](#)
- 3-9 [of said sum, or so much thereof as may be from time to time required, upon receipt by him of](#)
- 3-10 [properly authenticated vouchers.](#)
- 3-11 SECTION 3. This act shall take effect upon passage.

<p>MOTION: To support the reintroduction of 2009 -- H 5987 An Act Relating to State Affairs and Government -- Housing Resources - Neighborhood Opportunities Program. JB/JDe passed unanimously</p>		
Announcements and Scheduling of Meetings	Chairperson	5 min.
<p style="text-align: center;">The meeting schedule for 2010: The Legislation Committee meets the 2nd Monday 3 – 4:30 PM: 01/11; 02/08; 03/08; 04/12; 05/10; 06/14; 07/12; 08/30*; 09/20; 11/08; and 12/13. The Committee also conducts public forums on the concerns of people with disabilities annually during the week of July 26th – 30th celebrating the anniversary of the signing of the Americans with Disabilities Act (ADA) on July 26, 1990.</p>		
Next meeting will be on:	Monday January 11, 2010	Starting at: 3 PM
Adjournment:	Chairperson adjourned the meeting at 4:27 PM	
Resource persons:	Bob Cooper, Committee Staff	