Revised Meeting Notice for the Governor's Commission on Disabilities

Legislation Committee

Monday February 22, 2010 3 – 5 PM

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Attendees:	Linda Ward (Chair.); Bill Inlow (Vice Chair.); Ray Bandusky; Rebecca Boss; Sharon Brinkworth; Julie DeRosa; Timothy Flynn; Liberty Goodwin; Jean Lawlor; Arthur M. Plitt; Gwendolyn Reeve; & Theresa Thoelke
Absent:	Jeanne Behie; Rosemary C. Carmody; Erin Casey; Linda Deschenes; Elaina Goldstein; Laura Jones; Maureen Maigret; Kate McCarthy-Barnett; Paula Parker; Msgr. Gerard O. Sabourin; & Sarah Everhart Skeels;

---------- Minutes ----------

Call to Order and Acceptance of the Minutes	**Linda Ward, Chairperson**	**5 min.**

Introductions: Chair called to order at 3:08 PM

MOTION: To accept the minutes of the previous meeting as presented TF/AP passed unanimously

A) The Commission's Legislative Package	**Bob Cooper, Executive Secretary**	**10 min.**

- **Status of the Commission's Legislative Package**

Item	Action to Date	Status in the House	Status in the Senate
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	Drafted and arranged for introduction: "An Act Relating to Criminal Offenses - Adult Crisis Intervention - Center and Protective Services"	Representative Naughton 10 H 7369 referred to the House Finance Committee	Senator McCaffrey 10 S 2206 referred to the Senate Health and Human Services Committee
2. John J. MacDonald Jr. Transportation Initiative [accessible taxicabs]	Drafted and arranged for introduction: "An Act Relating to Wheelchair Accessible Transportation"	Speaker Pro-Tempori Coderre	Contacted Majority Leader Connor, waiting for a reply
3. Maintain the existing RIPTA/RIde service			
4. Monitor and respond to Medicaid Reform proposals to ensure maintenance of the current	Drafted: "An Act Relating to Health Care Assistance	Contacted Representative Naughton, waiting	Contacted Senator Blais, waiting for a reply

services to individuals with severe disabilities	for Working People with Disabilities"	for a reply	
5. Mandate pedestrian crosswalks have curb cuts on both sides	Drafted and arranged for introduction: "An Act Relating To Highways -Accessible Crosswalks"	Representative Kennedy 10 H 7300 referred to the House Municipal Government Committee	Senator Tassoni 10 S 2133 referred to the Senate Housing and Municipal Government Committee
6. Increase home modification funding			
7. Ensure implementation of the Disability Business Enterprise program	Drafted an amendment to: "10 S 2189 An Act Relating To Public Property And Works -- Minority Business Enterprise"		
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			

1. Revisions to the Sherlock, Medicaid Buy-In Bill

Report from the Medicaid Buy-In Subcommittee

The Executive Committee authorized the submission of a bill to revise the Medicaid Buy-In Premiums and Co-shares. After meeting with DHS Medicaid staff, additional changes will need to be made to the eligibility provisions. The changes are on line 9 and between lines 34 – 61 in ~~**bold**~~ **font.**

This act would change the determination of eligibility, premiums and co-sharing of workers with disabilities enrolled into the Sherlock Medicaid Buy-In program. This act also establishes the legal authority for the Department of Human Services to undertake a series of programmatic reforms geared toward the restructuring of its Medicaid programs in FY 2011.This act would take effect upon passage.

1 SECTION 1. Sections 40.8.7-6 and 40-8.7-7 of Chapter 40-8.7 of the General Laws entitled "Health
2 Care Assistance for Working People With Disabilities" is hereby amended to read as follows:
3 **40-8.7-6 Eligibility. –** To be eligible for benefits under the Medicaid buy-in program:
4 (1) The person shall be an individual with disabilities as defined in § 40-8.7-4, but without regard to his or her
5 ability to engage in substantial gainful activity, as specified in the Social Security Act, 42 U.S.C. § 423(d)(4);
6 (2) The person shall be employed as defined in § 40-8.7-4;
7 (3) The ~~**person's**~~ **individual or the couple's** net accountable income shall not exceed two hundred fifty
8 percent (250%) of the federal poverty level, taking into account the SSI program disregards and impairment-
9 related work expenses as defined in 42 U.S.C. § 1396a(r)(2);

(4) A maximum of ten thousand dollars ($10,000) of available resources for an individual and twenty thousand dollars ($20,000) for a couple shall be disregarded as shall any additional resources held in a retirement account, in a medical savings account, or any other account, related to enhancing the independence of the individual and approved under rules to be adopted by the department; and

(5) The person shall be a current medical assistance recipient under § 40-8.5-1 [CNIL] or § 40-8-3(v)[MNIL]; or shall meet income, assets, (except as modified by subdivision (4) above) and eligibility requirements for the medical assistance program under § 40-8.5-1 [CNIL] or § 40-8-3(v) [MNIL], as such requirements are modified and extended by this chapter.

40-8.7-7 Premiums and cost sharing. – (a) The department of human services is authorized and directed to promulgate such rules to establish the monthly premium payments for employed individuals with disabilities who opt to participate directly in the Medicaid buy-in program. To participate in the Medicaid buy-in program, the employed individual with disabilities shall be required to make payment for coverage in accordance with a monthly payment or payment formula to be established by the department. ~~which shall count the individual's monthly unearned income in excess of the medically needy income limit [MNIL] and shall count a portion of their earned income on a sliding scale basis, in accordance with rules to be established by the department~~;

(b) The department is further authorized and directed to promulgate such rules to encourage businesses, especially small businesses to hire individuals with disabilities, and to allow employed individuals with disabilities who have access to employer-based health insurance and who are determined eligible by the department pursuant to this chapter, to determine the optimal health insurance coverage in consultation with the employer and the Medicaid agency.

SECTION 2. This act shall serve as a Joint Resolution required pursuant to Rhode Island General Laws § 42-12.4-1, et seq.

WHEREAS, the General Assembly enacted Chapter 12.4 of Title 42 entitled "The Rhode Island Medicaid Reform Act of 2008"; and

WHEREAS, Rhode Island General Law § 42-12.4-7 provides that any change that requires the implementation of a rule or regulation or modification of a rule or regulation in existence prior to the implementation of the global consumer choice section 1115 demonstration ("the demonstration") shall require prior approval of the general assembly; and further provides that any category II change or category III change as defined in the demonstration shall also require prior approval to the general assembly; and

WHEREAS, Rhode Island General Law § 42-7.2-5 states that the Secretary of the Office of Health and Human Services is responsible for the "review and coordination of any Global Consumer Choice Compact Waiver requests and renewals as well as any initiatives and proposals requiring amendments to the Medicaid state plan or category I or II changes" as described in the demonstration, with "the potential to affect the scope, amount, or duration of publicly-funded health care services, provider payments or reimbursements, or access to or the availability of benefits and services provided by Rhode Island general and public laws"; and

WHEREAS, in pursuit of a more cost-effective consumer choice system of care that is fiscally sound and sustainable, the Secretary requests that the following proposal to amend the demonstration be approved by the general assembly;

***Modify the Sherlock Act.* The department of human services proposes refining the determination of eligibility, premiums and co-sharing of workers with disabilities enrolled in the Medicaid Buy-In program. Now, therefore, be it**

RESOLVED, that the general assembly hereby approves the changes set fourth in the proposal listed above to amend the demonstration; and be it further

RESOLVED, that the secretary of the office of health and human services is authorized to pursue and implement any such necessary waiver amendments, category II or category III changes, state plan amendments and/or changes to the applicable department's rules, regulations and procedures approved herein and as authorized by § 42-12.4-7.

SECTION 3. This act shall take effect as of July 1, 2010.

MOTION: To approve the draft revisions to the Commission's **Medicaid Buy-In bill**. TF/JL passed, RB,GR,AP abstained

2. Tim Flynn	• Disability Business Enterprises, **amendments to:** **10 S 2189 AN ACT RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS ENTERPRISE** Sen. Metts, Senate Finance Committee This act would clarify definitions, broaden administration flexibility, provide accountability and includes women-owned business enterprises (WBE) for ten percent (10%) of the dollar value of the entire project in state funded and state directed public construction programs and projects and in state purchases of goods and services. This act would take effect upon passage.

SECTION 1. Sections 37-14.1-1, 37-14.1-3, 37-14.1-4 and 37-14.1-6 of the General Laws in Chapter 37-14.1 entitled "Minority Business Enterprise" are hereby amended to read as follows:

37-14.1-1. Purpose. -- The purpose of this chapter is to carry out the state's policy of supporting the fullest possible participation of firms owned and controlled by minorities and women (MBE's and WBE's) in state funded and state directed public construction programs and projects and in state purchases of goods and services. This includes assisting MBE's and WBE's throughout the life of contracts in which they participate.

37-14.1-3. Definitions. -- (a) "Affirmative action" means taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve minority business enterprises fully in contracts and programs funded by the state.

(b) "Compliance" means the condition existing when a contractor has met and implemented the requirements of this chapter and any federal, state, or municipal laws or regulations relevant to the purpose of the contract, including, but not limited to, the federal EEOC recruitment and selection guidelines.

(c) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this chapter, a lease is a contract.

(d) "Contractor" means one who participates, through a contract or subcontract, in any procurement or program covered by this chapter and includes lessees and material suppliers.

~~(e) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:~~

~~(1) Black (a person having origins in any of the black racial groups of Africa);~~

~~(2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);~~

~~(3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);~~

~~(4) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);~~

~~(5) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America); or~~

(e) "Minority individual" means an individual who is a citizen of the United States or a noncitizen who is in full compliance with United States immigration law and who satisfies one or more of the following definitions:

(1) "African American" means a person having origins in any of the original peoples or nations of Africa, such as Cape Verde, Liberia and Nigeria;

(2) "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including, but not limited to, Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a U.S. Territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka;

(3) "Latino American" means a person having origins in any of the peoples of Mexico, South or Central America, the Caribbean Islands, or Brazil;

(4) "Native American" means a person having origins in any of the original peoples of North America or who is recognized by a tribal organization; or

~~(6)~~(5) Members of other groups or other individuals found to be economically and

socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended, 15 U.S.C. section 637(a).

~~(f) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to section 3 of the federal Small Business Act, 15 U.S.C. section 632, and implementing regulations, which is owned and controlled by one or more minorities or women. For the purposes of this chapter, owned and controlled means a business:~~

~~(1) Which is at least fifty-one percent (51%) owned by one or more minorities or women or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more minorities or women; and~~

~~(2) Whose management and daily business operations are controlled by one or more such individuals.~~

(f) "Minority business enterprise" or "MBE" means a small business concern that is at least fifty-one percent (51%) owned by one or more minority individuals that are found to be socially and economically disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended, 15 U.S.C. section 637(a), or in the case of any corporation, partnership, or limited liability company or other entity, at least fifty-one percent (51%) of the equity ownership is owned by one or more socially and economically disadvantaged minority individuals and the management and daily business operations are controlled by one or more of the socially and economically disadvantaged minority individuals who own it.

(g) "Women-owned business enterprises" or "WBE" means a small business concern that is at least fifty-one percent (51%) owned by one or more women that are found to be socially and economically disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended, 15 U.S.C. section 637(a), or in the case of any corporation, partnership, or limited liability company or other entity, at least fifty-one percent (51%) of the equity ownership is owned by one or more socially and economically disadvantaged women and the management and daily business operations are controlled by one or more of the socially and economically disadvantaged women who own it.

(h)~~(g)~~ "MBE coordinator" means the official designated to have overall responsibility for promotion of minority business enterprise in his or her departmental element.

(i)~~(h)~~ "Noncompliance" means the condition existing when a recipient or contractor has failed to implement the requirements of this chapter.

(j) "Small Business concern" means a business as defined by the Federal Small Business Act, 15 U.S.C.

(k) "State funded and state directed public construction programs and projects" means any construction project, construction contract or procurement contract for goods and services funded in whole or in part by state funds, or funds which, in accordance with federal grant or otherwise, the state expends or administers or in which the state is a signatory. Quasi-independent state agencies, such as the Rhode Island public buildings authority. The Narragansett Bay commission and the Rhode Island port authority, are subject to the requirements outlined under these provisions.

37-14.1-4. Policy. -- It is the policy of the state of Rhode Island that minority business enterprises (MBE's) and women-owned business enterprises (WBE's) shall have the maximum opportunity to participate in the performance of procurements and projects outlined in section 37-14.1-2.

37-14.1-6. ~~Minority business enterprise participation. --~~ Minority business enterprise and women-owned business enterprise participation. -- (a) Minority business enterprises shall be included in all procurements and construction projects under this chapter and shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or project. The director of the department of administration is further authorized to establish by rules and regulation formulas for giving minority business enterprises a preference in contract and subcontract awards.

(b) Women-owned business enterprises shall be included in all procurements and construction projects under this chapter and shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or project. The director of the department of

4-15 administration is further authorized to establish by rules and regulation formulas for giving
4-16 women-owned business enterprises a preference in contract and subcontract awards.
4-17 (c) The MBE coordinator shall report state expended procurement dollars on minority
4-18 and women-owned businesses. The report shall disclose procurement expenditures by the ethnic
4-19 category and industry under the "minority definition."
4-20 SECTION 2. Chapter 37-14.1 of the General Laws entitled "Minority Business
4-21 Enterprise" is hereby amended by adding thereto the following sections:
4-22 **37-14.1-7.1. Cooperation. --** All departments, boards, and agencies of the state shall
4-23 cooperate with all state entities charged with equal opportunity, diversity, minority business
4-24 enterprise, and/or civil rights concerns, such as the human rights commission, the state equal
4-25 opportunity office, the human resources, outreach and diversity, the minority business enterprise
4-26 office, the commission on women, the governor's commission on the handicapped, and shall
4-27 furnish any advice and information, documentary and otherwise, that may be necessary or
4-28 desirable to facilitate the purposes of this chapter.
4-29 **37-14.1-7.2. Quarterly reports. --** The director of the department of administration shall
4-30 file quarterly reports, hereby known as the state contract roster, with the secretary of state of all
4-31 state contracts. The office of secretary of state shall post the state contract roster on its website
4-32 for public disclosure. Included in the report shall be:
4-33 (1) The date, dollar amount, date of issuance, contract period, designation of bid or no bid
4-34 status of all state contracts issued during the quarter, by state and agency; and
5-1 (2) The Rhode Island economic development corporation shall make available
5-2 electronically its directory of businesses in Rhode Island on its website, and to the secretary of
5-3 state for public disclosure on the secretary of state website, as the recorder of public documents.
5-4 The directory of businesses shall be all inclusive, annually updated, and shall designate minority
5-5 and certified minority status. For purposes of this report, female owned businesses shall be
5-6 distinguished from other minority groups. For purposes of this chapter, minority shall be
5-7 consistent with the definitions contained within.
5-8 **37-14.1-7.3. Severability. --** If any provision or part of this chapter, or application of this
5-9 chapter to any person or circumstances is held unconstitutional or otherwise invalid, the
5-10 remaining provisions of this chapter and the application of those provisions to any other person or
5-11 persons or circumstances, other than those to which it is held invalid, shall not be affected by that
5-12 invalidity.
5-13 SECTION 3. This act shall take effect upon passage.

Last year the Commission recommended the act be amended to also revise the Disability Business Enterprise Law, by inserting on page 5 between lines 12 and 13:

SECTION 3. Sections 37-2.2-2 and 37-2.2-3.1 of the General Laws in Chapter 37-2.2-3.1 entitled "Disability Business Enterprise" are hereby amended to read as follows:

§ 37-2.2-2 Definitions. – As used in this chapter, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

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(8) "State funded and state directed public construction programs and projects" means any construction project, construction contract or procurement contract for goods and services funded in whole or in part by state funds, or funds which, in accordance with federal grant or otherwise, the state expends or administers or in which the state is a signatory. Quasi-independent state agencies, such as the Rhode Island public buildings authority. The Narragansett Bay commission and the Rhode Island port authority, are subject to the requirements outlined under these provisions.

§ 37-2.2-3.1 Policy and applicability. – It is the policy of the state of Rhode Island that small disadvantaged disability businesses shall have the maximum opportunity to participate in the performance of procurements and projects as outlined in this chapter. This chapter shall apply to any and all state purchasing, including, but not limited to, the procurement of goods and services, construction projects, or contracts funded in whole or in part by state funds, or funds which, in accordance with a federal grant or otherwise, the state expends or administers or in which the state is a signatory to the construction contract.

Small disadvantaged businesses owned and controlled by persons with disabilities shall be included in all

procurements and construction projects under this chapter and shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or project. The director of administration, in consultation with the governor's commission on disabilities, is authorized and directed to establish rules and ~~regulations~~ regulation formulas for giving small disadvantaged businesses owned and controlled by persons with disabilities a preference in contract and subcontract awards ~~for awarding contracts to small disadvantaged businesses owned and controlled by persons with disabilities in the procurement of goods, services, construction projects, or contracts funded in whole or in part by state funds, in accordance with § 37-2-9(b)(14)~~.

And on page 5 line 13 delete the number "3" and insert therein the number "4".

MOTION: To find beneficial if amended **10 S 2189 An Act Relating to Public Property and Works – Minority Business Enterprise** (and any companion bills). TF/JD passed unanimously

B. Consideration of New Bills	**Review Team Members**	**30 min.**

The Review Teams Members:

1. Budget: Tim Flynn, Arthur Plitt, Linda Ward, and Bill Inlow
2. Civil Rights: Tim Flynn, Jean Lawlor, Julie DeRosa, Liberty Goodwin, Linda Ward, and Bill Inlow
3. Disability Prevention: Gwen Reeve, Sharon Brinkworth, Linda Ward, and Bill Inlow
4. Employment: Elaina Goldstein, Rory Carmody, Linda Deschenes, Jeanne Behie, Liberty Goodwin, Laura Jones, Linda Ward, and Bill Inlow
5. Medicaid: Elaina Goldstein, Paula Parker, Linda Ward, and Bill Inlow
6. Health Care Insurance: Elaina Goldstein, Liberty Goodwin, Theresa Thoelke, Linda Ward, and Bill Inlow
7. Professional Standards: Liberty Goodwin, Gwen Reeve, Linda Ward, and Bill Inlow
8. Housing: Julie DeRosa, Sharon Brinkworth, Jeanne Behie, Liberty Goodwin, Linda Ward, and Bill Inlow
9. Human Services: Rory Carmody, Tim Flynn, Elaina Goldstein, Paula Parker, Linda Ward, and Bill Inlow
10. Special Education: Jeanne Behie, Linda Deschenes, Liberty Goodwin, Arthur Plitt, Msgr. Sabourin, Linda Ward, and Bill Inlow
11. Transportation: Gwen Reeve, Jean Lawlor, Jeanne Behie, Linda Ward, and Bill Inlow

Members who haven't joined a team:

Ray Bandusky, Rebecca Boss, Kate McCarthy-Barnett, Maureen Maigret, Sarah Everhart Skeels,

3. Bill Inlow	**Civil Rights** **10 H 7315 AN ACT RELATING TO HEALTH AND SAFETY** Rep. Palumbo House Health, Education, & Welfare This act would require nursing home administrators to report abuse of residents to the state police or the police department of the municipality where the abuse occurred. This act would take effect upon passage.

SECTION 1. Section 23-17.5-9 of the General Laws in Chapter 23-17.5 entitled "Rights of Nursing Home Patients" is hereby amended to read as follows:

23-17.5-9. Abuse. -- (a) Patients shall not be subject to mental and physical abuse, and shall be free from chemical and (except in emergencies) physical restraints except as authorized in writing by a physician for a specified and limited period of time for the protection of the patient.

(b) Restraining devices are generally prohibited. A controlling device to be used for the protection of the patient may be utilized only as prescribed in writing and signed by a physician. The length of time, the purpose, and the kind of restraint shall be specified in the physician's order.

(c) A training program in the use of restraints shall be required for all personnel providing direct patient care, and completion of the program shall be documented in the employee's personnel record.

(d) If physical restraining devices are authorized by a physician in accordance with subsection (b), the patient's next of kin or legal guardian shall be informed in writing of the purpose and duration of restraint. A copy of the communication shall be retained in the medical record for one year.

(e) Whenever any nursing home administrator receives information that a resident of his/her facility has been harmed as a result of physical abuse, neglect, or mistreatment, the administrator shall immediately notify the state police or the police department of the city or town in which the abuse occurred.

SECTION 2. This act shall take effect upon passage.

	MOTION: To find beneficial 10 **H 7315 An Act Relating to Health and Safety** BI/GR passed unanimously
4. Jean Lawlor	**H 7490 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - CRIMINAL PROCEDURE SENTENCE AND EXECUTION - HATE CRIMES** Rep. Segal House Judiciary Committee, This act would include crimes against homeless persons within the definition of "hate crimes" for the purposes of reporting and monitoring by the state police. This act would take effect upon passage.

SECTION 1. Section 42-28-46 of the General Laws in Chapter 42-28 entitled "State Police" is hereby amended to read as follows:

42-28-46. Development of system monitoring crimes motivated by bigotry and bias. - (a) For the purposes of this section, the following words shall have the following meanings:

(1) "Police department" -- means all state, municipal and campus police departments within the state of Rhode Island;

(2) "Hate crime" -- means any crime motivated by bigotry and bias, including, but not limited to threatened, attempted, or completed acts that appear after investigation to have been motivated by racial, religious, ethnic, sexual orientation, gender or disability prejudice or motivated by prejudice against a person who is homeless or is perceived to be homeless;

(3) "Hate crime data" -- means information, incident reports, records and statistics relating to hate crimes, collected by the state police unit pursuant to this section;

(4) "Incident report" -- means account of any individual occurrence of hate crime received or collected by the crime reporting unit pursuant to this section.

(b) The state police shall, by January 1, 1994, develop a system monitoring the occurrence of crimes committed in the state which the evidence of the offense demonstrates was motivated by racial, religious, ethnic bigotry, or bias on any other matter defined as a "hate crime" herein. All police departments within the state shall report monthly the occurrence of such crimes to the state police. The state police shall maintain a permanent record of these offenses categorized by community of occurrence, type of offense, target of offense, and such other information as the department deems relevant. The department shall develop a plan for the collection, analysis, and dissemination of the data regarding such crimes and shall promulgate regulations relating to the collection of hate crime data, as defined in this section, which are submitted by law enforcement agencies, individuals, state and local human rights commissions, and anti-discrimination advocacy organizations.

(c) The state police shall compile and distribute to each police department a listing of all criminal offenses and penalties for those actions defined as "hate crimes" herein. Notice of the provision of these sections shall be primarily posted at each police station.

SECTION 2. This act shall take effect upon passage.

MOTION: To find beneficial **H 7490 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - CRIMINAL PROCEDURE SENTENCE AND EXECUTION - HATE CRIMES** JB/AP passed, Nay – SB & LG and

	Abstained GR
5. Jean Lawlor	**10 S 2149 AN ACT RELATING TO PROPERTY -- RHODE ISLAND FAIR HOUSING PRACTICES AC**T Sen. Metts Senate Judiciary Committee, This act would prohibit discrimination in housing against those persons who are recipients of government assistance, i.e. being the recipient of federal, state or local public assistance, including medical assistance, or the recipient of federal, state or local housing subsidies, including section 8, and other rental assistance or rental supplements, or who is subject to the requirements of any public assistance, rental assistance or housing subsidy program. This act would take effect upon passage.

SECTION 1. Chapter 34-37 of the General Laws entitled "Rhode Island Fair Housing Practices Act" is hereby amended by adding thereto the following sections:

34-37-2.5. Right to equal housing opportunities -- Government assistance recipient status. – Whenever in this chapter there shall appear the words "marital status" there shall be inserted immediately thereafter the words "government assistance recipient status."

34-37-2.6. Discrimination based on government assistance recipient status -- Exemption. – Nothing in this title shall prohibit an owner of a housing accommodation from refusing to rent to a person based on his or her government assistance recipient status if the housing accommodation is three (3) units or less, one of which is occupied by the owner.

SECTION 2. Sections 34-37-1, 34-37-2, 34-37-3, 34-37-4, 34-37-4.3, 34-37-5.2, 34-37-5.3 and 34-37-5.4 of the General Laws in Chapter 34-37 entitled "Rhode Island Fair Housing Practices Act" are hereby amended to read as follows:

34-37-1. Finding and declaration of policy. -- (a) In the State of Rhode Island and Providence Plantations, hereinafter referred to as the state, many people are denied equal opportunity in obtaining housing accommodations and are forced to live in circumscribed areas because of discriminatory housing practices based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse. These practices tend unjustly to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions in crowded, unsanitary, substandard, and unhealthful accommodations. These conditions breed intergroup tension as well as vice, disease, juvenile delinquency, and crime; increase the fire hazard; endanger the public health; jeopardize the public safety, general welfare and good order of the entire state; and impose substantial burdens on the public revenues for the abatement and relief of conditions so created. These discriminatory and segregative housing practices are inimical to and subvert the basic principles upon which the colony of Rhode Island and Providence Plantations was founded and upon which the state and the United States were later established. Discrimination and segregation in housing tend to result in segregation in our public schools and other public facilities, which is contrary to the policy of the state and the constitution of the United States. Further, discrimination and segregation in housing adversely affect urban renewal programs and the growth, progress, and prosperity of the state. In order to aid in the correction of these evils, it is necessary to safeguard the right of all individuals to equal opportunity in obtaining housing accommodations free of discrimination.

(b) It is hereby declared to be the policy of the state to assure to all individuals regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, or disability, age, familial status, or those tenants or applicants, or members of a household, who are, or have been, or are threatened with being, the victims of domestic abuse, or those tenants or applicants who have obtained, or sought, or are seeking, relief from any court in the form of a restraining order for protection from domestic abuse, equal opportunity to live in decent, safe, sanitary, and healthful accommodations anywhere within the state in order that the peace, health, safety, and general welfare of all the inhabitants of the state may be protected and insured.

(c) The practice of discrimination in rental housing based on the potential or actual tenancy of a person with a minor child, or on the basis that a tenant or applicant, or a member of

the household, is or has been or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse is declared to be against public policy.

(d) This chapter shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, and peace of the people of the state.

(e) Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with section 34-18-24(7).

34-37-2. Right to equal housing opportunities -- Civil rights. -- The right of all individuals in the state to equal housing opportunities and regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or regardless of the fact that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, is hereby recognized as, and declared to be, a civil right. Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with section 34-18-24(7).

34-37-3. Definitions. -- When used in this chapter:

(1) "Age" means anyone over the age of eighteen (18).

(2) "Commission" means the Rhode Island commission for human rights created by section 28-5-8.

(3) "Discriminate" includes segregate, separate, or otherwise differentiate between or among individuals because of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, or familial status or because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age or familial status of any person with whom they are or may wish to be associated.

(4) (i) "Familial status" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

(A) A parent or another person having legal custody of the individual or individuals; or

(B) The designee of the parent or other person having the custody, with the written permission of the parent or other person provided that if the individual is not a relative or legal dependent of the designee, that the individual shall have been domiciled with the designee for at least six (6) months.

(ii) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(5) "Disability" means a disability as defined in section 42-87-1. Provided further that the term "disability" does not include current, illegal use of or addiction to a controlled substance, as defined in 21 U.S.C. section 802.

(6) The terms, as used regarding persons with disabilities, “auxiliary aids and services,” “reasonable accommodation,” and “reasonable modifications” have the same meaning as those terms are defined in section 42-87-1.1.

(7) "Housing accommodation" includes any building or structure or portion of any building or structure, or any parcel of land, developed or undeveloped, which is occupied or is intended, designed, or arranged to be occupied, or to be developed for occupancy, as the home or residence of one or more persons.

(8) [Deleted by P.L. 1997, ch. 150, section 8.]

(9)~~(10)~~ "Otherwise qualified" includes any person with a disability who with respect to the rental of property, personally or with assistance arranged by the person with a disability, is capable of performing all the responsibilities of a tenant as contained in section 34-18-24.

(10)~~(11)~~"Owner" includes any person having the right to sell, rent, lease, or manage a housing accommodation.

(11)~~(12)~~"Person" includes one or more individuals, partnerships, associations, organizations, corporations, labor organizations, mutual companies, joint stock companies, trusts, receivers, legal representatives, trustees, other fiduciaries, or real estate brokers or real estate Salespersons as defined in chapter 20.5 of title 5.

(12)~~(15)~~"Senior citizen" means a person sixty-two (62) years of age or older.

(13)~~(16)~~The term "sexual orientation" means having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of persons and does not render lawful any conduct prohibited by the criminal laws of this state nor impose any duty on a religious organization. This definition does not confer legislative approval of said status, but is intended to assure the basic human rights of persons to hold and convey property and to give and obtain credit, regardless of such status.

(14)~~(17)~~The term "gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self image, gender-related appearance, or gender-related expression; whether or not that gender identity, gender-related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

(15)~~(18)~~The term "domestic abuse" for the purposes of this chapter shall have the same meaning as that set forth in section 15-15-1, and include all forms of domestic violence as set forth in section 12-29-2, except that the domestic abuse need not involve a minor or parties with minor children.

(16)~~(19)~~The term "victim" means a family or household member and all other persons contained within the definition of those terms as defined in section 12-29-2.

(17) The term "government assistance recipient status" means being the recipient of federal, state or local public assistance, including medical assistance, or the recipient of federal, state or local housing subsidies, including section 8, and other rental assistance or rental supplements, or who is subject to the requirements of any public assistance, rental assistance or housing subsidy program.

34-37-4. Unlawful housing practices. -- (a) No owner having the right to sell, rent, lease, or manage a housing accommodation as defined in section 34-37-3(11), or an agent of any of these shall, directly or indirectly, make or cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin or disability, age, familial status nor make any written or oral inquiry concerning whether a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any prospective purchaser, occupant, or tenant of the housing accommodation; or shall, directly or indirectly, refuse to sell, rent, lease, let, or otherwise deny to or withhold from any individual the housing accommodation because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, or familial status of the individual or the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin or disability, age, or familial status of any person with whom the individual is or may wish to be associated; or shall, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse. Nor shall an owner having the right to sell, rent, lease, or manage a housing accommodation as defined in section 34-37-3(11), or an agent of any of these, directly or indirectly, issue any advertisement relating to the sale, rental, or lease of the housing accommodation which indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the

tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, or shall, directly or indirectly, discriminate against any individual because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, in the terms, conditions, or privileges of the sale, rental, or lease of any housing accommodation or in the furnishing of facilities or services in connection with it. Nothing in this subsection shall be construed to prohibit any oral or written inquiry as to whether the prospective purchaser or tenant is over the age of eighteen (18).

(b) No person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation, whether secured or unsecured shall directly or indirectly make or cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or any express written or oral inquiry into whether a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any individual seeking the financial assistance, or of existing or prospective occupants or tenants of the housing accommodation; nor shall any person to whom the application is made in the manner provided, directly or indirectly, discriminate in the terms, conditions, or privileges relating to the obtaining or use of any financial assistance against any applicant because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of the applicant or of the existing or prospective occupants or tenants. Nothing in this subsection shall be construed to prohibit any written or oral inquiry as to whether the applicant is over the age of eighteen (18).

(c) Nothing in this section contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease, or manage a housing accommodation to establish standards and preferences and set terms, conditions, limitations, or specifications in the selling, renting, leasing, or letting thereof or in the furnishing of facilities or services in connection therewith which do not discriminate on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any prospective purchaser, lessee, tenant, or occupant thereof or on the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, or familial status of any person with whom the prospective purchaser, lessee, tenant, or occupant is or may wish to be associated. Nothing contained in this section shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations, or specifications for the granting of loans or financial assistance which do not discriminate on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the

household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of the applicant for the loan or financial assistance or of any existing or prospective owner, lessee, tenant, or occupant of the housing accommodation.

(d) An owner may not refuse to allow a person with a disability to make, at his or her expense, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the owner may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. Where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of the restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in the account shall accrue to the benefit of the tenant. The restoration deposition shall be exempt from section 34-18-19(a) but will be subject to section 34-18-19(b) -- (f).

(e) (1) An owner may not refuse to make reasonable accommodations in rules, policies, practices, or services, when those accommodations may be necessary to afford an occupant with a disability equal opportunity to use and enjoy a dwelling.

(2) Every person with a disability who has a guide dog or other personal assistive animal, or who obtains a guide dog or other personal assistive animal, shall be entitled to full and equal access to all housing accommodations provided for in this section, and shall not be required to pay extra compensation for the guide dog or other personal assistive animal, but shall be liable for any damage done to the premises by a guide dog or other personal assistive animal. For the purposes of this subsection a "personal assistive animal" is an animal specifically trained by a certified animal training program to assist a person with a disability to perform independent living tasks.

(f) Any housing accommodation of four (4) units or more constructed for first occupancy after March 13, 1991 shall be designed and constructed in such a manner that:

(1) The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

(2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs;

(3) All premises within the dwellings contain the following features of adaptive design:

(i) Accessible route into and through the dwelling;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow later installation of grab bars; and

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. To the extent that any state or local building codes, statutes or ordinances are inconsistent with this section, they are hereby repealed. The state building code standards committee is hereby directed to adopt rules and regulations consistent with this section as soon as possible, but no later than September 30, 1990.

(g) Compliance with the appropriate requirements of the State Building Code 14 "accessibility for individuals with disabilities for residential use groups" suffices to satisfy the requirements of subsection (f).

(h) As used in subsection (f), the term "housing accommodation of four (4) units or more" means:

(1) Buildings consisting of four (4) or more units if those buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four (4) or more units;

(i) Nothing in subsection (f) shall be construed to limit any law, statute, or regulation which requires a greater degree of accessibility to persons with disabilities.

(j) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(k) Nothing contained in this chapter shall be construed to prohibit an owner, lessee, sublessee, or assignee from advertising or selecting a person of the same or opposite gender to rent, lease, or share the housing unit which the owner, lessee, sublessee, or assignee will occupy with the person selected.

(l) No person shall aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful housing practice, or obstruct or prevent any person from complying with the provisions of this chapter or any order issued thereunder, or attempt directly or indirectly to commit any act declared by this section to be an unlawful housing practice.

(m) No owner, person defined in section 34-37-3(12), person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation, whether secured or unsecured, no financial organization governed by the provisions of title 19 or any other credit granting commercial institution, or respondent under this chapter or any agent of these shall discriminate in any manner against any individual because he or she has opposed any practice forbidden by this chapter, or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this chapter.

(n) Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with section 34-18-24(7)(n).

34-37-4.3. Discrimination in granting credit or loans prohibited. -- No financial organization governed by the provisions of title 19 or any other credit granting commercial institution may discriminate in the granting or extension of any form of loan or credit, or the privilege or capacity to obtain any form of loan or credit, on the basis of the applicant's sex, marital status, government assistance recipient status, race or color, religion or country of ancestral origin, disability or age or familial status, sexual orientation, or gender identity or expression, and the form of loan and credit shall not be limited to those concerned with housing accommodations, and the commission shall prevent any violation hereof in the same manner as it is to prevent unlawful housing practices under the provisions of this chapter.

34-37-5.2. Discrimination in brokerage services. -- It shall be unlawful to deny any person who meets licensing and other non-discriminatory requirements which are also applied to other applicants and members access to or membership or participation in any real estate listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling, leasing, or renting a housing accommodation, or to discriminate against him or her in the terms or conditions of the access, membership, or participation, on account of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, government assistance recipient status, country of ancestral origin, disability, age, or familial status.

34-37-5.3. Fostering of segregated housing prohibited. -- It shall be an unlawful discriminatory housing practice to for profit induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, marital status, government assistance recipient status, country of ancestral origin, sex, sexual orientation, gender identity or expression, age, disability, or familial status.

34-37-5.4. Discrimination in residential real estate related transactions. -- (a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of the transaction, because of race, color, religion, marital status, government assistance recipient status, country of ancestral origin, sex, sexual orientation, gender identity or expression, age, disability, or familial status.

(b) As used in this section, the term "residential real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(i) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(ii) Secured by residential real estate.
(2) The selling, brokering, or appraising of residential real property.
(c) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, marital status, country of ancestral origin, sex, sexual orientation, gender identity or expression, age, disability, or familial status.
SECTION 3. This act shall take effect upon passage.

	MOTION: To find beneficial **10 S 2149 An Act Relating to Property -- Rhode Island Fair Housing Practices Act** JL/JD passed, TT & LG abstained
6. Bill Inlow	**Disability Prevention** **10 H 7111 & S 2065 ACTS RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES** Rep. Marcello House Judiciary Committee & Sen. Sen. Raptakis Senate Judiciary Committee These acts would require the use of an ignition interlock system and would be applicable to individuals convicted of various driving offenses involving drugs or alcohol. This act would take effect upon passage.

SECTION 1. Section 31-27-2.8 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" is hereby amended to read as follows:
31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements. --
~~Any person convicted under the provisions of section 31-27-2(d)(2) or (3) may be prohibited by the sentencing judge from operating a motor vehicle that is not equipped with an ignition interlock system for a period of not more than two (2) years following the completion of any sentence imposed pursuant to that section.~~
(a) Any person convicted under the provisions of section 31-27-2 shall, in addition to the penalties contained in section 31-27-2, be prohibited from operating a motor vehicle which is not equipped with an approved ignition interlock system for the following terms:
(1) A minimum period of six (6) months and a maximum period of one year for the first conviction;
(2) A minimum period of one year and a maximum period of two (2) years for the second conviction;
(3) A minimum period of five (5) years and a maximum period of ten (10) years for the third conviction;
(4) A minimum period of ten (10) years and a maximum period of twenty (20) years for the fourth conviction.
(b) Any person convicted pursuant to section 31-27-2 while transporting a person under eighteen (18) years of age shall be subject to a minimum of an additional six (6) months in addition to the terms specified in subsection (a).
(c) Any person who drives in violation of an ignition interlock order, including altering or tampering with said device, shall be guilty of a felony punishable by a fine of one thousand dollars ($1,000) and up to one year is prison.
(d) Any person who drives with a suspended license and the reason for the suspension was a consequence of driving under the influence of drugs or alcohol, or refusal to submit to a chemical test, shall be subject to an additional six (6) months use of the ignition interlock system.
(e) The department of motor vehicles shall promulgate rules and regulations regarding certification and installation of the interlock system. All costs associated with installation of said systems shall be borne by the person required to install said system. The department shall charge an administrative fee of one hundred dollars ($100) to the person ordered to install said system. Said fee shall be apportioned to cover administrative costs and establishment of an ignition interlock devise fund available to indigent parties. The division of motor vehicles shall establish the criteria for individuals who qualify for utilization of said fund.
SECTION 2. This act shall take effect upon passage.

MOTION: To find beneficial **H 7111 & S 2065 Acts Relating to Motor and Other Vehicles -- Motor Vehicle Offenses** BI/AP passed, TT, TF abstained

7. Bill Inlow	**10 H 7317 AN ACT RELATING TO FOOD AND DRUGS -- CONTROLLED SUBSTANCES-- MARIJUANA** Rep. Edwards House Judiciary Committee This act would decriminalize the possession of less than one ounce (1 oz.) of marijuana, and substitute a civil penalty of one hundred fifty dollars ($150). This act would take effect upon passage.

SECTION 1. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances Act" is hereby amended by adding thereto the following section:

21-28-4.07. Possession of small amounts of marijuana -- Civil offense. – Notwithstanding the provisions of any other section of the general laws to the contrary, the possession of less than one ounce (1 oz.) of marijuana shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars ($150). Said penalty shall inure to the general fund of the state if the citation is issued by the state police, but otherwise to the municipality where the civil offense occurred.

SECTION 2. This act shall take effect upon passage.

MOTION: To find beneficial **10 H 7317 An Act Relating to Food and Drugs -- Controlled Substances—Marijuana** BI/**motion failed** for lack of a second.

8. Gwen Reeve	**10 H 7418 AN ACT RELATING TO EDUCATION - HEALTH EDUCATION CURRICULUM** Rep. Jackson, House Health, Education, & Welfare Committee This act would require that the department of elementary and secondary education develop a Lyme disease awareness and prevention course for public school students and all health education classes include instruction on Lyme disease prevention and treatment. This act would take effect upon passage.

SECTION 1. Short title – The Act shall be cited and known as the "Beth Bowley Coen Lyme Disease Educational Act."

SECTION 2. Legislative Intent – It is the intent of the general assembly to afford all Rhode Island children all the protection possible from contacting Lyme disease.

SECTION 3. Legislative findings – Whereas the general assembly finds that (a) Rhode Island ranks fourth (4th) in the nation in the incidence of Lyme Disease and (b) That the highest incidence of Lyme disease occurs in children between the ages of five (5) and fourteen years of age; and

Whereas, the general assembly has further found that: (a) That Lyme disease is a serious threat to the health of all children in Rhode Island; (b) That medical science has not perfected a serum or vaccine to protect Rhode Island children against Lyme disease and (c) That the sole defense that Rhode Island children have against contracting Lyme disease is awareness and prevention and (d) That a structured program for Lyme disease awareness and prevention is absent from Rhode Island's mandated health curriculum.

SECTION 4. Section 16-22-4 of the General Laws in Chapter 16-22 entitled "Curriculum" is hereby amended to read as follows:

16-22-4. Instruction in health and physical education. -- All children in grades one through twelve (12) attending public schools, or any other schools managed and controlled by the state, shall receive in those schools instruction in health and physical education which shall include Lyme disease prevention and treatment under rules and regulations the department of elementary and secondary education may prescribe or approve during periods which shall average at least twenty (20) minutes in each school day. No private school or private instruction shall be approved by any school committee for the purposes of chapter 19 of this title as substantially equivalent to that required by law of a child attending a public school in the same city and/or town unless instruction in health and physical education similar to that required in public schools shall be given. Commencing September 1, 2012, the required health education curriculum shall be based on the health education standards of the Rhode Island Health Education Framework: Health Literacy for All Students as promulgated by the Rhode Island department of education and consistent with the mandated health instructional outcomes therein. Commencing September 1, 2012, the required physical education curriculum shall be based on the physical education

standards of the Rhode Island Physical Education Framework: Supporting Physically Active Lifestyles through Quality Physical Education as promulgated by the Rhode Island department of education and consistent with the instructional outcomes therein.

SECTION 5. Chapter 16-22 of the General Laws entitled "Curriculum" is hereby amended by adding thereto the following section:

16-22-25. Lyme disease awareness and prevention program. -- (a) The department of elementary and secondary education shall develop and prescribe a Lyme disease awareness and prevention course for public school students in the state. The course shall be established in accordance with the requirements and criteria obtained from the director of the department of health. The department of elementary and secondary education shall promulgate course guidelines.

(b) The school committees of the several cities, towns, and school districts shall provide for the incorporation of the course in training in existing health education courses.

SECTION 6. This act shall take effect upon passage.

	MOTION: To find beneficial **10 H 7418 An Act Relating To Education - Health Education Curriculum** GR/JD Yea – GR, JD Nays SB,AP, TT, TF, JL, BI, LW, abstain RB **Motion failed**
9. Gwen Reeve	**10 S2121 AN ACT RELATING TO EDUCATION - SCHOOL AND MUNICIPAL PLAYGROUND SAFETY** Sen. Blais, Senate Finance Committee This act would provide grants to cities and towns for projects undertaken specifically to comply with the department of education and department of health's joint health and environment recreational facility safety regulations and/or to provide access for people with disabilities. This act would take effect upon passage.

SECTION 1. Section 16-7-40 of the General Laws in Chapter 16-7 entitled "Foundation Level School Support" is hereby amended to read as follows:

16-7-40. Increased school housing ratio for regional schools -- Energy conservation - - Access for people with disabilities -- Asbestos removal projects. -- (a) (1) In the case of regional school districts, the school housing aid ratio shall be increased by two percent (2%) for each grade so consolidated.

(2) Regional school districts undertaking renovation project(s) shall receive an increased share ratio of four percent (4%) for those specific project(s) only, in addition to the combined share ratio calculated in section 16-7-39 and this subsection.

(b) In the case of projects undertaken by regionalized and/or non-regionalized school districts specifically for the purposes of energy conservation, access for people with disabilities, recreation facility environmental safety, and/or asbestos removal, the school housing aid share ratio shall be increased by ~~four percent (4%)~~ ten percent (10%) for these specific projects only, in the calculation of school housing aid. The increased share ratio shall continue to be applied for as log as the project(s) receive state housing aid. In order to qualify for the increased share ratio, seventy-five percent (75%) of the project costs must be specifically directed to either energy conservation, access for people with disabilities, and/or asbestos removal or any combination of these projects. The board of regents for elementary and secondary education shall promulgate rules and regulations for the administration and operation of this section.

(c) Upon the transfer of ownership from the state to the respective cities and towns of the regional career and technical center buildings located in Cranston, East Providence, Newport, Providence, Warwick, Woonsocket and the Chariho regional school district, the school housing aid share ratio shall be increased by four percent (4%) for the renovation and/or repair of these buildings. To qualify for the increased share ratio, as defined in section 16-7-39, renovation and repair projects must be submitted for approval through the necessity of school construction process prior to the end of the second full fiscal year following the transfer of ownership and assumption of local care and control of the building. Only projects at regional career and technical centers that have full program approval from the department of elementary and secondary education shall be eligible for the increased share ratio. The increased share ratio shall continue to be applied for as long as the renovation and/or repair project receives school housing

aid.

(d) Projects undertaken specifically to comply with the department of education and department of health's joint health and environment recreational facility safety regulations must be developed in consultation with parents of children with and without disabilities.

SECTION 2. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled "Department of Environmental Management" is hereby amended to read as follows:

42-17.1-2. Powers and duties. -- The director of environmental management shall have the following powers and duties:

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(34) To provide grants to cities and towns for projects undertaken specifically to comply with the department of education and department of health's joint health and environment recreational facility safety regulations and/or provide access for people with disabilities. Such projects must be developed in consultation with parents of children with and without disabilities.

SECTION 3. This act shall take effect upon passage.

	MOTION: To find beneficial if amended to reimbursed at 4% 10 S 2121 An Act Relating to Education - School and Municipal Playground Safety GR/AP passed Abstain, TT, LG,RB, LW
9c. Arthur Plitt	**10 H 7352 AN ACT RELATING TO ALCOHOLIC BEVERAGES - RETAIL LICENSES** Rep. Kilmartin House Municipal Government Committee This act would require that employees required to complete the Alcohol Server training regulations testing procedures must do so prior to employment in the city of Pawtucket. Current law requires employees to complete certified training within 60 days of the commencement of his or her employment and must attain a minimum score of 75%. This act would take effect upon passage.

SECTION 1. Section 3-7-6.1 of the General Laws in Chapter 3-7 entitled "Retail Licenses" is hereby amended to read as follows:

3-7-6.1. Renewal of Class B, Class C, Class D, Class J, Class N and Class P licenses. -- (a) The holder of a Class B, Class C, Class D, Class J, Class N or Class P license who applies before October 1, in any licensing period, for a license of the same class for the next succeeding licensing period shall, prior to filing said application, demonstrate that he or she has complied with the Alcohol Server Training Regulations, as promulgated by the department of business regulation, as set forth in subsection (b) of this section.

(b) The department of business regulation shall promulgate rules and regulations requiring that all licenses issued pursuant to this section meet the following minimum Alcohol Server Training requirements:

(1) All persons who sell or serve alcoholic beverages, anyone serving in a supervisory capacity over those who sell or serve alcoholic beverages, anyone whose job description entails the checking of identification for the purchase of alcoholic beverages and valet parking staff shall receive Alcohol Server Training as set forth herein.

(2) Any eligible employee of a licensee shall be required to complete certified training within sixty (60) days of the commencement of his or her employment and must attain a minimum score of seventy-five percent (75%). Provided, however, that the city of Pawtucket may require eligible employees to complete the certified training program, prior to employment within the city. Individuals certified by an alcohol server training program prior to December 31, 2005 are exempt from the certification requirements herein, not to exceed three (3) years.

(3) Licensees shall require servers to be recertified every three (3) years.

(4) As a condition of license renewal, and as part of the license renewal application, each licensee must submit to their municipality information verifying that all persons listed under subsection (b)(1) above and employed by the licensee for more than sixty (60) days in the past year have completed a certified program within the last three (3) years.

(5) All persons identified under subsection (b) above must have their valid server permits on the premises when engaged in the sale or service of alcoholic beverages.

(6) Individuals who have been issued a server permit in another jurisdiction by an

approved Rhode Island alcohol server training program shall be determined to be in compliance with this section subject to the three (3) year limitation contained herein.

(c) Only alcohol server training programs that meet the following criteria as determined by the department of mental health, retardation and hospitals may be eligible for certification:

(1) Training is provided in all basic information relevant to servers, including, but not limited to:

(i) The physiological effects of alcohol;

(ii) Alcohol's association with social problems;

(iii) Coverage of legal requirements related to alcohol service;

(iv) How to identify patrons who are impaired; and

(v) Techniques in refusing service to intoxicated patrons.

(2) Training is provided in more than one medium including, but not limited to, video, training manual, and/or role playing related to refusal of service to intoxicated drinkers.

(3) Training in preventing sales to underage drinkers, including training in detection of fraudulent identification;

(4) Training shall entail no less than two (2) hours, and no greater than four (4) hours in duration, with no absentee certification.

(d) Notwithstanding the criteria established under subsection 3-7-6.1(c), an Internet or computer-based alcohol server training program shall be eligible for certification if the following criteria are met:

(1) Training in all basic information, as outlined in subdivision 3-7-6.1(c)(1), is included in the program;

(2) Training in preventing sales to underage drinkers, including training in detection of fraudulent identification is included in the program; and

(3) Training program is designed to periodically verify that a trainee has reviewed and obtained a working knowledge of information presented through the Internet or computer training program.

(e) (1) Testing procedures, test content, and grading procedures shall be approved by the department of mental health, retardation and hospitals to insure testing integrity and consistency with program requirements contained in subsection (c) herein. The department of mental health, retardation and hospitals is authorized to audit, in a method it shall determine, any approved server training program.

(2) Training programs, pursuant to rules and regulations promulgated by the department of mental health, retardation and hospitals, shall be recertified every three (3) years.

(3) Server permits shall be issued by the server training programs in a form approved by the department of mental health, retardation and hospitals. Said permits shall include, at a minimum, the name of the server, the date of issuance, and the name of the server training program.

(f) The department of business regulation shall promulgate and enforce rules and regulations for non-compliance as follows:

(1) Graduated penalties for licensees for violations within a three (3) year period beginning with an initial written warning for violations within a three (3) year period for a first violation, a written warning for a second (2nd) violation, a fine not to exceed two hundred fifty dollars ($250) for a third (3rd) violation or noncompliance, and a license suspension for subsequent violations.

(2) For violations within a three (3) year period, graduated penalties for training programs beginning with an initial written warning, a written warning for a second (2nd) violation, and a suspension and/or decertification for a third (3rd) violation or for repeated noncompliance. The department of mental health, retardation and hospitals may forward complaints of violations to the department of business regulation.

(3) For violations within a three (3) year period, graduated penalties for servers beginning with an initial written warning, a written warning for a second (2nd) violation, and a loss of server training certification for a third (3rd) violation or noncompliance.

(4) Failure to have a valid server permit on their person shall not constitute a violation,

provided, proof of a valid permit is provided within ten (10) days thereof.

(g) In order to provide for uniformity, any enactment by any government body relating to alcohol server training programs pertaining to Class B, Class C, Class D, Class J, Class N and P licenses, as provided for herein shall be by statute as enacted by the general assembly.

(h) The respective departments shall promulgate said regulations no later than October 1, 2005. The department of mental health, retardation and hospitals shall review and certify eligible alcohol server training programs no later than January 1, 2006. The department of mental health, retardation and hospitals shall notify applicants of any deficiencies not later than December 1, 2005. All licensees shall be in compliance with said regulations within ninety (90) days of January 1, 2006, or be subject to the penalties set forth herein.

SECTION 2. This act shall take effect upon passage.

MOTION: To find beneficial if amended to apply to all communities 10 H 7352 An Act Relating to Alcoholic Beverages - Retail Licenses AP/JL passed, Nay-TT, GR, LD, abstain SB.

13. Bill Inlow

10 H 7361 AN ACT RELATING TO INSURANCE -- INSURANCE COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE Rep. Ajello House Corporations Committee This act would require that reimbursement paid by a health care insurer for mental illness and substance abuse coverage be comparable to that paid for similar medical services. This act would take effect upon passage.

SECTION 1. Section 27-38.2-1 of the General Laws in Chapter 27-38.2 entitled "Insurance Coverage for Mental Illness and Substance Abuse" is hereby amended to read as follows:

27-38.2-1. Mental illness coverage. -- Every health care insurer that delivers or issues for delivery or renews in this state a contract, plan, or policy except contracts providing supplemental coverage to Medicare or other governmental programs, shall: (1) ~~provide~~ Provide coverage for the medical treatment of mental illness and substance abuse under the same terms and conditions as that coverage is provided for other illnesses and diseases~~.~~; and (2) Ensure that reimbursement for professional providers providing medical treatment of mental illness and substance abuse is determined using the same methodology as reimbursement for professional providers of medical services. Insurance coverage offered pursuant to this statute must include the same durational limits, amount limits, deductibles, and co-insurance factors for mental illness as for other illnesses and diseases. In no case shall professional provider reimbursement paid by a health care insurer for mental illness coverage be at a level that is not comparable to reimbursements paid by such insurer for medical services of a similar level and requiring similar expertise.

SECTION 2. This act shall take effect upon passage.

MOTION: To find beneficial **10 H 7361 An Act Relating to Insurance -- Insurance Coverage For Mental Illness And Substance Abuse** BI/JD passed, Abstained LG.

15. Linda Ward

Human Services

10 H 7408 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - OFFICE OF HEALTH AND HUMAN SERVICES Rep. Costantino House Finance Committee Referred to Committee This act would consolidate the 5 health and human services departments into one executive department to be known as the “Department of Health and Human Services.” The five consolidated departments would be as follows: (1) the department of children, youth and families; (2) the department of health; (3) the department of elderly affairs; (4) the department of human services; and (5) the department of mental health, retardation and hospitals. The new department would consist of five (5) divisions: (1) children and families; (2) behavioral health; (3) developmental disabilities; (4) public health; and (5) elderly and long-term care. The new department would also be lead by a single director, with each division having its own division chief. Each of these persons would be selected by the governor with the advice and consent of the Senate. This act would take effect February 1, 2011.

SECTION 1. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human

Services" is hereby repealed in its entirety.

~~CHAPTER 42-7.2~~

~~Office of Health and Human Services~~

~~42-7.2-1. Statement of intent. -- The purpose of this Chapter is to develop a consumer-centered system of publicly-financed state administered health and human services that supports access to high quality services, protects the safety of the state's most vulnerable citizens, and ensures the efficient use of all available resources by the five (5) departments responsible for the health and human services programs serving all Rhode Islanders and providing direct assistance and support services to more than 250,000 individuals and families: the department of children, youth, and families; the department of elderly affairs; the department of health; the department of human services; and the department of mental health, retardation and hospitals, collectively referred to within as "departments". It is recognized that the executive office of health and human services and the departments have undertaken a variety of initiatives to further this goal and that they share a commitment to continue to work in concert to preserve and promote each other's unique missions while striving to attain better outcomes for all the people and communities they serve. However, recent and expected changes in federal and state policies and funding priorities that affect the financing, organization, and delivery of health and human services programs pose new challenges and opportunities that have created an even greater need for structured and formal interdepartmental cooperation and collaboration. To meet this need while continuing to build on the achievements that have already been made, the interests of all Rhode Islanders will best be served by codifying in the state's general laws the purposes and responsibilities of the executive office of health and human services and the position of secretary of health and human services.~~

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

~~42-7.2-3. Secretary of health and human services -- Appointment. -- The executive office of health and human services shall be administered by a secretary of health and human services, hereafter referred to as "secretary". The position of secretary is hereby created in the unclassified service. The secretary shall be appointed by the governor, and shall be subject to~~

~~advice and consent of the senate. The secretary shall hold office at the pleasure of the governor and until a successor is appointed and qualified. Before entering upon the discharge of duties, the secretary shall take an oath to faithfully execute the duties of the office.~~

~~42-7.2-4. Responsibilities of the secretary. -- (a) The secretary shall be responsible to the governor for supervising the executive office of health and human services and for managing and providing strategic leadership and direction to the five departments.~~

~~(b) Notwithstanding the provisions set forth in this chapter, the governor shall appoint the directors of the departments within the executive office of health and human services. Directors appointed to those departments shall continue to be subject to the advice and consent of the senate and shall continue to hold office as set forth in sections 42-6-1 et seq. and 42-72-1(c).~~

~~42-7.2-5. Duties of the secretary. -- The secretary shall be subject to the direction and supervision of the governor for the oversight, coordination and cohesive direction of state administered health and human services and in ensuring the laws are faithfully executed, not withstanding any law to the contrary. In this capacity, the Secretary of Health and Human Services shall be authorized to:~~

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

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

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

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

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

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

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

~~(iv) Expenditures, outcomes and utilization rates by type of service and/or service provider.~~

~~The directors of the departments, as well as local governments and school departments, shall assist and cooperate with the secretary in fulfilling this responsibility by providing whatever resources, information and support shall be necessary.~~

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

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

~~(i) Direct implementation of reforms in the human resources practices of the departments that streamline and upgrade services, achieve greater economies of scale and establish the coordinated system of the staff education, cross- training, and career development services necessary to recruit and retain a highly-skilled, responsive, and engaged health and human services workforce;~~

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

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

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

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

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

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

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

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

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

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

~~(10) At the direction of the governor or the general assembly, conduct independent reviews of state-administered health and human services programs, policies and related agency actions and activities and assist the department directors in identifying strategies to address any issues or areas of concern that may emerge thereof. The department directors shall provide any~~

~~information and assistance deemed necessary by the secretary when undertaking such independent reviews.~~

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

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

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

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

~~42-7.2-6. Departments assigned to the executive office -- Powers and duties. -- (a) The departments assigned to the secretary shall:~~

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

~~(2) Provide such assistance or resources as may be requested or required by the governor and/or the secretary; and~~

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

~~(4) Forward to the secretary copies of all reports to the governor.~~

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

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

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

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

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

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

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

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

~~(7) By October 1, 2009, program integrity, quality control and collection and recovery~~

~~functions including any that detect fraud and abuse or assure that beneficiaries, providers, and third-parties pay their fair share of the cost of services, as well as any that promote alternatives to publicly financed services, such as the long-term care health insurance partnership.~~

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

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

~~(b) The secretary shall determine in collaboration with the department directors whether the officers, employees, agencies, advisory councils, committees, commissions, and task forces of the departments who were performing such functions shall be transferred to the office.~~

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

~~(1) Minimal disruption of services to consumers;~~

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

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

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

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

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

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

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

~~(e) The secretary shall prepare and submit to the leadership of the house and senate finance committees, by no later than January 1, 2010, a plan for restructuring functional responsibilities across the departments to establish a consumer centered integrated system of health and human services that provides high quality and cost-effective services at the right time and in the right setting across the life-cycle.~~

~~42-7.2-7. Independent advisory council -- Purposes. -- (a) The secretary shall establish an independent advisory council, hereafter referred to as "advisory council" composed of representatives of the network of health and human services providers, the communities the departments serve, state and local policy makers and any other stakeholders or consumers interested in improving access to high quality health and human services.~~

~~(b) The advisory council shall assist the secretary in identifying: issues of concern and priorities in the organization and/or delivery of services; areas where there is need for interdepartmental collaboration and cooperation; and opportunities for building sustainable and effective public-private partnerships that support the missions of the departments. The advisory council shall also provide guidance to the secretary in developing a plan to further the purposes of the executive office and assist the departments in meeting their unique missions and shared responsibilities.~~

~~(c) With the assistance of the department directors, the secretary shall hold health and human services forums and open meetings that encourage community, consumer and stakeholder input on health and human services issues, proposals and activities and actions of the executive office that have been identified by the advisory council as areas of concern or important policy priorities or opportunities for the state.~~

~~42-7.2-8. Assignment and reassignment of advisory bodies. -- The governor may, by executive order, reassign any advisory bodies, boards, or commissions associated or affiliated with the departments to the secretary of health and human services or assign any such entities that may be created.~~

~~42-7.2-9. Appointment of employees. -- The secretary, subject to the provisions of applicable state law, shall be the appointing authority for all employees of the executive office of~~

~~health and human services. The secretary may assign this function to such subordinate officers and employees of the executive office as may to him or her seem feasible or desirable. The appointing authority of the secretary provided for herein shall not affect, interfere with, limit, or otherwise restrict the appointing authority vested in the directors for the employees of the departments under applicable general and public laws.~~

~~42-7.2-10. Appropriations and disbursements. -- The general assembly shall annually appropriate such sums as it may deem necessary for the purpose of carrying out the provisions of this chapter. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of such sum or sums, or so much thereof as may from time to time be required, upon receipt by him or her of proper vouchers approved by the secretary of the executive office of health and human services, or his or her designee.~~

~~42-7.2-11. Rules and regulations. -- The executive office of health and human services shall be deemed an agency for purposes of section 42-35-1, et seq. of the Rhode Island general laws. The secretary shall make and promulgate such rules and regulations, fee schedules not inconsistent with state law and fiscal policies and procedures as he or she deems necessary for the proper administration of this chapter and to carry out the policy and purposes thereof.~~

~~42-7.2-12. Medicaid program study. -- (a) The secretary of the executive office of health and human services shall conduct a study of the Medicaid programs administered by the state to review and analyze the options available for reducing or stabilizing the level of uninsured Rhode Islanders and containing Medicaid spending.~~

~~(1) As part of this process, the study shall consider the flexibility afforded the state under the federal Deficit Reduction Act of 2006 and any other changes in federal Medicaid policy or program requirements occurring on or before December 31, 2006, as well as the various approaches proposed and/or adopted by other states through federal waivers, state plan amendments, public-private partnerships, and other initiatives.~~

~~(2) In exploring these options, the study shall examine fully the overall administrative efficiency of each program for children and families, elders and adults with disabilities and any such factors that may affect access and/or cost including, but not limited to, coverage groups, benefits, delivery systems, and applicable cost-sharing requirements.~~

~~(b) The secretary shall ensure that the study focuses broadly on the Medicaid programs administered by all five (5) of the state's five (5) health and human services departments, irrespective of the source or manner in which funds are budgeted or allocated. The directors of the departments shall cooperate with the secretary in preparing this study and provide any information and/or resources the secretary deems necessary to assess fully the short and long-term implications of the options under review both for the state and the people and the communities the departments serve. The secretary shall submit a report and recommendations based on the findings of the study to the general assembly and the governor no later than March 1, 2007.~~

~~42-7.2-12.1. Human services call center study (211). -- (a) The secretary of the executive office of health and human services shall conduct a feasibility and impact study of the potential to implement a statewide 211 human services call center and hotline. As part of the process, the study shall catalog existing human service information hotlines in Rhode Island, including, but not limited to, state-operated call centers and private and not-for-profit information hotlines within the state.~~

~~(1) The study shall include analysis of whether consolidation of some or all call centers into a centralized 211 human services information hotline would be economically and practically advantageous for both the public users and agencies that currently operate separate systems.~~

~~(2) The study shall include projected cost estimates for any recommended actions, including estimates of cost additions or savings to private service providers.~~

~~(b) The directors of all state departments and agencies shall cooperate with the secretary in preparing this study and provide any information and/or resources the secretary deems necessary to assess fully the short and long-term implications of the operations under review both for the state and the people and the communities the departments serve.~~

~~(c) The secretary shall submit a report and recommendations based on the findings of the~~

~~study to the general assembly, the governor, and the house and senate fiscal advisors no later than February 1, 2007.~~

~~42-7.2-13. Severability. -- If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect other provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.~~

~~42-7.2-14. Cooperation of other state executive branch agencies. -- As may be appropriate from time to time, the departments and other agencies of the state of the executive branch that have not been assigned to the executive office of health and human services under this chapter shall assist and cooperate with the executive office as may be required by the governor requested by the secretary.~~

~~42-7.2-15. Applicability. -- Nothing in this chapter shall change, transfer or interfere with, or limit or otherwise restrict the general assembly's sole authority to appropriate and re-appropriate fiscal resources to the departments; the statutory or regulatory duties of the directors of the departments, or the appointing authority for the employees of the departments vested in the directors under applicable general and public laws.~~

~~42-7.2-16. Medicaid System Reform 2008. -- (a) The executive office of health and human services, in conjunction with the department of human services, the department of elderly affairs, the department of children youth and families, the department of health and the department of mental health, retardation and hospitals, is authorized to design options that reform the Medicaid program so that it is a person-centered, financially sustainable, cost-effective, and opportunity driven program that: utilizes competitive and value based purchasing to maximize the available service options, promote accountability and transparency, and encourage and reward healthy outcomes, independence, and responsible choices; promotes efficiencies and the coordination of services across all health and human services agencies; and ensures the state will have a fiscally sound source of publicly-financed health care for Rhode Islanders in need.~~

~~(b) Principles and Goals. - In developing and implementing this system of reform, the executive office of health and human services and the five (5) health and human services departments shall pursue the following principles and goals:~~

~~(1) Empower consumers to make reasoned and cost-effective choices about their health by providing them with the information and array of service options they need and offering rewards for healthy decisions;~~

~~(2) Encourage personal responsibility by assuring the information available to beneficiaries is easy to understand and accurate, provide that a fiscal intermediary is provided when necessary, and adequate access to needed services;~~

~~(3) When appropriate, promote community-based care solutions by transitioning beneficiaries from institutional settings back into the community and by providing the needed assistance and supports to beneficiaries requiring long-term care or residential services who wish to remain, or are better served in the community;~~

~~(4) Enable consumers to receive individualized health care that is outcome-oriented, focused on prevention, disease management, recovery and maintaining independence;~~

~~(5) Promote competition between health care providers to ensure best value purchasing, to leverage resources and to create opportunities for improving service quality and performance;~~

~~(6) Redesign purchasing and payment methods to assure fiscal accountability and encourage and to reward service quality and cost-effectiveness by tying reimbursements to evidence-based performance measures and standards, including those related to patient satisfaction; and~~

~~(7) Continually improve technology to take advantage of recent innovations and advances that help decision-makers, consumers and providers to make informed and cost-effective decisions regarding health care.~~

~~(c) The executive office of health and human services shall annually submit a report to the governor and the general assembly commencing on a date no later than July 1, 2009 describing the status of the administration and implementation of the Global Waiver Compact.~~

SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND

GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 7.4

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42-7.4-1. Statement of intent. – (a) The purpose of this Chapter is to develop a consumer-centered system of publicly-financed state administered health and human services that supports access to high quality services, protects the safety of the state's most vulnerable citizens, and ensures the efficient use of all available resources in this state. This will be achieved by combining the five (5) departments responsible for the health and human services programs serving all Rhode Islanders and for providing direct assistance and support services to more than 250,000 individuals and families into one single department, which department shall be known as the "Department of Health and Human Services." This new department shall combine the services and the functions of the following: (1) the department of children, youth, and families; (2) the department of elderly affairs; (3) the department of health; (4) the department of human services; and (5) the department of mental health, retardation and hospitals, collectively sometimes referred to in this chapter as "former departments".

(b) The functions of the executive office of health and human services shall also be transferred to and assumed by department of health and human services.

42-7.4-2. Definitions. – As used in this chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

(a) "Division chief" refers to the supervisor of each of the five (5) divisions created in the department of health and human services pursuant to this chapter, including: (1) the division of children and family services; (2) the division of behavioral health; (3) the division of developmental disabilities; (4) the division of public health; and (5) the division of elderly and long-term care.

(b) "Department" refers to the department of health and human services established pursuant to this chapter.

(c) "Director" refers to the director of the department of health and human services.

(d) "Divisions" refers to the five (5) divisions created in the department of health and human services pursuant to this chapter, including: (1) the division of children and family services; (2) the division of behavioral health; (3) the division of developmental disabilities; (4) the division of public health; and (5) the division of elderly and long-term care.

(e) "Former departments" shall refer to (1) the department of children, youth and families; (2) the department of health; (3) the department of elderly affairs; (4) the department of human services; and/or (5) the department of mental health, retardation and hospitals.

42-7.4-3. Department established. –

(a) There is hereby established within the executive branch of the state government a department of health and human services.

(b) The purposes and responsibilities of the department of health and human services shall include:

(1) The assumption of all of the duties of the following former departments: (i) the department of children, youth and families; (ii) the department of health; (iii) the department of elderly affairs; (vi) the department of human services; and (v) the department of health, retardation, and hospitals; and

(2) The assumption of all duties of the former executive office of health and human services; and

(3) The creation of a new function based organizational structure within the department of health and human services that shall facilitate the provision of services to residents of the state under the auspices of one departmental entity;

(c) The areas of service provided by the department of health and human services shall include, but not be limited to, the following: (1) children and families; (2) behavioral health; (3) developmental disabilities; (4) public health; and (5) elderly and long-term care.

42-7.4-4. Director - selection. –

(a) The head of the department shall be the director of health and human services, who shall be in the unclassified service and who shall be appointed by the governor, with the advice

and consent of the senate, and shall serve at the pleasure of the governor.

(b) Notwithstanding the provisions set forth in this chapter, the director shall nominate division chiefs of the various divisions for appointment by the governor and subject to the advice and consent of the senate.

(1) The division chief of the division of public health shall be a physician graduated by an acceptable medical college recognized by one of the medical examining boards of the state and shall have had a minimum of one year of university graduate instruction in public health administration as evidenced by a certificate of graduation or a degree in public health, or board certification in a medical specialty and a minimum of five (5) years full time experience in health administration.

42-7.4-5. Purpose and function of department. –

(a) General purpose. In addition to the purposes set forth in section 42-7.4-1, the purpose of the department of health and human services shall be to develop a consumer centered, publicly financed, state administered health and human services program that supports access to and provision of high quality services to the citizens of this state, and also to ensure the efficient use of all available resources by consolidation of five (5) former state departments which perform separate but related functions into one single department.

(b) General functions. In addition to those functions set forth in section 42-7.4-1, the function of the department of health and human services shall be to consolidate the following departments into one department composed of separate divisions within one single department: (1) the department of children, youth and families established pursuant to chapter 42-72; (2) the department of health as established pursuant to chapter 42-18; (3) the department of elderly affairs as established pursuant to chapter 42-66; (4) the department of human services as established pursuant to chapter 42-12; and (5) the department of mental health established pursuant to chapter 42-12.1.The new department of health and human services shall also assume all of the duties of the executive office of health and human services previously established pursuant to the provisions of chapter 42-7.2.

42-7.4-6. Divisions within department. – (a) Divisions established. Within the department of health and human services, there are established the following divisions:

(1) A division of children and family services;

(2) A division of behavioral health;

(3) A division of developmental disabilities;

(4) A division of public health; and

(5) A division of elderly and long-term care.

(b) Each division shall be lead and administered by a division chief, each of whom shall report directly to the director of the department of health and human services.

42-7.4-7. Transfer of functions and resources. – As used in this section and in section 42-7.4-8, the term “resources” shall include functions, rights, duties, rights of action, contracts, contractual obligations, and liabilities of a respective former department, as well as property, accounts, and employees, as necessary to carry out the business of the respective former departments, except directors and administrators shall not be deemed to be automatically transferred.

(b) The resources of the following former departments are hereby transferred to the department of health and human services:

(1) The resources of the department of children, youth and families;

(2) The resources of the department of health;

(3) The resources of the department of elderly affairs;

(4) The resources of the department of human services;

(5) The resources of the department of mental health, retardation and hospitals; and

(6) The resources of the executive office of health and human services.

(c) The director shall assign the respective functions and duties to each division as the director determines is in the best interests of the people of this state and is consistent with the purposes and functions set forth in this chapter. In making such assignments, the director shall consult with the permanent joint committee of the global waiver compact established pursuant to

section 42-12-4.5.

(d) As part of the transfer provided for herein, all employees of the respective former departments who are transferred shall retain their previous status in the classified and/or unclassified service. The director of the department of health and human services following consultation with the personnel administrator in the department of administration, shall be responsible for assigning final class specifications with salaries commensurate with the duties and responsibilities assigned. The personnel administrator shall take into consideration existing classifications currently within the classified service classification and pay plan.

(e) Transferred employees who return to service with the State of Rhode Island directly from uninterrupted employment with any of the five (5) respective departments that are being consolidated shall have their length of service at their respective department deemed to be uninterrupted active state service for purposes of service credits in the state retirement system.

(f) Employees who subsequently become employees of the department of health and human services as a result of this transfer may utilize their term of service with the previous former department for the purposes of longevity computation as it applies to wages, vacation time and longevity increases. In addition, accrued vacation time, sick leave, and all other benefits with the previous department may be transferred.

42-7.4-8. Consolidation of departments. – Consolidation of departments. (a) the following departments shall be deemed to be dissolved and otherwise to cease to exist as separate executive departments effective upon the transfer of all resources to the department of health and human services: (1) the department of children, youth and families; (2) the department of health; (3) the department of elderly affairs; (4) the department of human services; and (5) the department of mental health, retardation, and hospitals.

(b) Effective upon the transfer of all resources to the department of health and human services, references in the general laws to the following former departments shall be deemed to refer to the department of health and human services:

(1) the department of children, youth and families; (2) the department of health; (3) the department of elderly affairs; (4) the department of human services; and (5) the department of mental health, retardation, and hospitals.

42-7.4-9. Duties of the department. – In addition to the purposes and functions set forth elsewhere in this chapter, the department of health and human services shall be entrusted with the following duties:

(a) Provide the state's health and human services through the divisions established in this chapter.

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

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

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

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

(f) 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.

(g) 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. section 1396a et seq., notwithstanding any general or public law or regulation to the contrary, and exercising such single state departmental authority for such other federal and state programs as may be designated by the governor.

42-7.4-10. Responsibilities and duties of director. – (a) The director shall be responsible to the governor for supervising the department of health and human services and providing strategic leadership and direction to the five (5) divisions.

(b) The director shall nominate division chiefs of the various divisions as provided for in

17-14 section 42-7.4-4 for appointment by the governor and subject to the advice and consent of the
17-15 senate.
17-16 (c) The director shall be subject to the direction and supervision of the governor for the
17-17 oversight, coordination and cohesive direction of state administered health and human services
17-18 and in ensuring the laws are faithfully executed, not withstanding any law to the contrary. In this
17-19 capacity, the director of the department of health and human services shall be authorized to:
17-20 (1) Coordinate the administration and financing of health care benefits, human services
17-21 and programs including those authorized by the Medicaid State Plan under Title XIX of the U.S.
17-22 Social Security Act. This shall include but not be limited to the powers, duties or functions
17-23 conferred upon the departments by Rhode Island public and general laws for the administration of
17-24 federal/state programs financed in whole or in part with Medicaid funds or the administrative
17-25 responsibility for the preparation and submission of any state plans, state plan amendments, or
17-26 authorized federal waiver applications.
17-27 (2) Serve as the governor's chief advisor and liaison to federal policymakers on Medicaid
17-28 reform issues as well as the principal point of contact in the state on any such related matters.
17-29 (3) Review and ensure the coordination of any new Global Consumer Choice Compact
17-30 Waiver requests and renewals as well as any initiatives and proposals requiring amendments to
17-31 the Medicaid state plan or category one (I) or two (II) changes, as described in the special terms
17-32 and conditions of the Global Consumer Choice Compact Waiver with the potential to affect
17-33 scope, amount or duration of publicly funded health care services, provider payments or
17-34 reimbursements, or access to or the availability of benefits and services as provided by Rhode
18-1 Island general and public laws. The director shall consider whether any such changes are legally
18-2 and fiscally sound and consistent with the state's policy and budget priorities. The director shall
18-3 also assess whether a proposed change is capable of obtaining the necessary approvals from
18-4 federal officials and achieving the expected positive consumer outcomes. Division chiefs of
18-5 divisions shall, within the timelines specified, provide any information and resources the director
18-6 deems necessary in order to perform the reviews authorized in this section;
18-7 (4) Beginning in 2011, prepare and submit to the governor, the chairpersons of the house
18-8 and senate finance committees, the caseload estimating conference, and to the joint legislative
18-9 committee for health care oversight, by no later than March 15 of each year, a comprehensive
18-10 overview of all Medicaid expenditures outcomes, and utilization rates. The overview shall
18-11 include, but not be limited to, the following information:
18-12 (i) Expenditures under Titles XIX and XXI of the Social Security Act, as amended;
18-13 (ii) Expenditures, outcomes and utilization rates by population and sub-population served
18-14 (e.g. families with children, children with disabilities, children in foster care, children receiving
18-15 adoption assistance, adults with disabilities, and the elderly);
18-16 (iii) Expenditures, outcomes and utilization rates by each state department or other
18-17 municipal or public entity receiving federal reimbursement under Titles XIX and XXI of the
18-18 Social Security Act, as amended; and
18-19 (iv) Expenditures, outcomes and utilization rates by type of service and/or service
18-20 provider. The division chiefs of the divisions, as well as local governments and school
18-21 departments, shall assist and cooperate with the director in fulfilling this responsibility by
18-22 providing whatever resources, information and support shall be necessary.
18-23 (5) Resolve administrative, jurisdictional, operational, program, or policy conflicts
18-24 among divisions and their executive staffs and make necessary recommendations to the governor.
18-25 (6) Assure continued progress toward improving the quality, the economy, the
18-26 accountability and the efficiency of state-administered health and human services. In this
18-27 capacity, the director shall:
18-28 (i) Direct implementation of reforms in the human resources practices of the department
18-29 that streamlines and upgrades services, achieves greater economies of scale and establishes the
18-30 coordinated system of the staff education, cross-training, and career development services
18-31 necessary to recruit and retain a highly skilled, responsive, and engaged health and human
18-32 services workforce;
18-33 (ii) Encourage the divisions to engage in consumer-centered approaches to service design

and delivery that expand their capacity to respond efficiently and responsibly to the diverse and changing needs of the people and communities they serve;

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

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

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

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

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

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

(7) Prepare a comprehensive budget for the department of health and human services. The budget shall be submitted to the state budget office by the director for consideration by the governor, on behalf of the state's department of health and human services in accordance with the provisions set forth in section 35-3-4 of the Rhode Island general laws.

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

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

(10) At the direction of the governor or the general assembly, conduct independent reviews of state-administered health and human services programs, policies and related actions and activities and identify strategies to address any issues or areas of concern that may emerge thereof. The division chiefs in the department and directors of other executive departments and agencies shall provide any information and assistance deemed necessary by the director when undertaking such independent reviews.

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

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

(13) Implement the provisions of any general or public law or regulation related to the disclosure, confidentiality and privacy of any information or records, in the possession or under the control of the department, that may be developed or acquired for purposes directly connected with the director's duties set forth herein.

42-7.4-11. Continuation of services while resources are transferred. –

(a) In the transference of such resources from the former departments to the department of health and human services, the director shall be responsible for ensuring:

(1) Minimal disruption of services to consumers;

(2) Elimination of duplication of functions and operations;

(3) Services are coordinated and functions are consolidated where appropriate;
(4) Clear lines of authority are delineated and followed;
(5) Cost savings are achieved whenever feasible;
(6) Program application and eligibility determination processes are coordinated and, where feasible, integrated; and
(7) State and federal funds available to the department and the divisions therein are allocated and utilized for service delivery to the fullest extent possible.
(b) The director shall prepare and submit to the leadership of the house and senate finance committees, by no later than May 1, 2011, a plan for restructuring functional responsibilities across the divisions to establish a consumer centered integrated system of health and human services that provides high quality and cost-effective services at the right time and in the right setting across the life-cycle.
42-7.4-12. Independent advisory council – Purposes. -- (a) The director shall establish an independent advisory council, hereafter referred to as "advisory council" composed of representatives of the network of health and human services providers, the communities the department serves, state and local policy makers and any other stakeholders or consumers interested in improving access to high quality health and human services.
(b) The advisory council shall assist the director in identifying: issues of concern and priorities in the organization and/or delivery of services, areas where there is need for collaboration and cooperation; and opportunities for building sustainable and effective public-private partnerships that support the missions of the department. The advisory council shall also provide guidance to the director in developing a plan to further the purposes of the department.
(c) The director shall hold health and human services forums and open meetings that encourage community, consumer and stakeholder input on health and human services issues, proposals, and activities and actions of the executive office that have been identified by the advisory council as areas of concern or important policy priorities or opportunities for the state.
42-7.4-13. Assignment and reassignment of advisory bodies. -- Any advisory bodies, boards, or commissions associated or affiliated with the departments or any such agencies that may be created shall be assigned to the director of health and human services.
42-7.4-14. Appointment of employees. – (a) The director, subject to the provisions of applicable state law, shall be the appointing authority for all employees of the department of health and human services; provided, however, the chiefs of the various divisions shall be nominated by the director, appointed by the governor, and subject to the advice and consent of the senate.
(b) The director may assign this function of appointment of employees, except for the nomination of division chiefs, to such subordinate officers and employees for the department as may to him or her seem feasible or desirable.
42-7.4-15. Oversight. -- The permanent joint committee of the global waiver compact established pursuant to section 42-12-4.5 shall be granted the authority to oversee all aspects of the consolidation of health and human services functions within the department of health and human services. Provided, the actual assignment of functions and duties to the respective divisions within the department shall be performed by the director.
42-7.4-16. Transfer of functions regarding executive office of human services. – Effective upon the effective date of this act, the executive office of human services shall be deemed to be dissolved, and all functions and duties of the executive office of human services shall be transferred to the department of health and human services.
42-7.4-17. Appropriations and disbursements. – The general assembly shall annually appropriate such sums as it may deem necessary for the purpose of carrying out the provisions of this chapter. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of such sum or sums, or so much thereof as may from time to time be required, upon receipt by him or her of proper vouchers approved by the director of the department of health and human services, or his or her designee.
42-7.4-18. Rules and regulations. -- The department of health and human services shall be deemed an agency for purposes of section 42-35-1, et seq. ("Administrative Procedures") of

the Rhode Island general laws. The secretary shall make and promulgate such rules and regulations, fee schedules not inconsistent with state law and fiscal policies and procedures as he or she deems necessary for the proper administration of this chapter and to carry out the policy and purposes thereof.

42-7.4-19. Severability. -- If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect other provisions of applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

42-7.4-20. Cooperation of other state executive branch agencies. -- As may be appropriate from time to time, the departments and other agencies of the state of the executive branch that have been assigned to the department of health and human services under this chapter shall assist and cooperate with the department as may be required by the governor or requested by the director.

42-7.4-21. Medicaid system reform 2010. -- (a) The department of health and human services, is authorized to design options that reform the Medicaid program so that it is a person-centered, financially sustainable, cost-effective, and opportunity driven program that: utilizes competitive and value based purchasing to maximize the available service options, promote accountability and transparency, and encourage and reward healthy outcomes, independence, and responsible choices; promotes efficiencies and the coordination of services across all health and human services agencies; and ensures the state will have a fiscally sound source of publicly-financed health care for Rhode Islanders in need.

(b) Principles and Goals. In developing and implementing this system of reform, the department of health and human services shall pursue the following principles and goals:

(1) Empower consumers to make reasoned and cost-effective choices about their health by providing them with the information and array of service options they need and offering rewards for healthy decisions;

(2) Encourage personal responsibility by assuring the information available to beneficiaries is easy to understand and accurate, provide that a fiscal intermediary is provided when necessary, and adequate access to needed services;

(3) When appropriate, promote community-based care solutions by transitioning beneficiaries from institutional settings back into the community and by providing the needed assistance and supports to beneficiaries requiring long-term care or residential services who wish to remain, or are better services in the community;

(4) Enable consumers to receive individualized health care that is outcome-oriented, focused on prevention, disease management, recovery and maintaining independence;

(5) Promote competition between health care providers to ensure best value purchasing, to leverage resources and to create opportunities for improving service quality and performance;

(6) Redesign purchasing and payment methods to assure fiscal accountability and encourage and to reward service quality and cost-effectiveness by tying reimbursements to evidence-based performance measures and standards, including those related to patient satisfaction; and

(7) Continually improve technology to take advantage of recent innovations and advances that help decision makers, consumers and providers to make informed and cost-effective decisions regarding health care.

(c) The department of health and human services shall annually submit a report to the governor and the general assembly commencing on a date no later than July 1, 2011 describing the status of the administration and implementation of the Global Waiver Compact.

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

42-6-1. Enumeration of departments. -- All the administrative powers and duties heretofore vested by law in the several state departments, boards, divisions, bureaus, commissions, and other agencies shall be vested in the following departments and other agencies which are specified in this title:

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

(b) Department of state (chapter 8 of this title);
(c) Department of the attorney general (chapter 9 of this title);
(d) Treasury department (chapter 10 of this title);
(e) Department of administration (chapter 11 of this title);
(f) Department of business regulation (chapter 14 of this title);
~~(g) Department of children, youth, and families (chapter 72 of this title);~~
(h) Department of corrections (chapter 56 of this title);
~~(i) Department of elderly affairs (chapter 66 of this title);~~
(j) Department of elementary and secondary education (chapter 60 of title 16);
(k) Department of environmental management (chapter 17.1 of this title);
~~(l) Department of health (chapter 18 of this title);~~
(m) Board of governors for higher education (chapter 59 of title 16);
(n) Department of labor and training (chapter 16.1 of this title);
~~(o) Department of mental health, retardation, and hospitals (chapter 12.1 of this title);~~
~~(p) Department of human services (chapter 12 of this title);~~
(q) Department of transportation (chapter 13 of this title);
(r) Public utilities commission (chapter 14.3 of this title);
(s) Department of revenue (chapter 142 of title 42);
(t) Department of public safety (chapter 7.3 of this title).
(u) Department of health and human services, established pursuant to chapter 7.4 of title 42.

42-6-2. Heads of departments. -- The governor, secretary of state, attorney general, and general treasurer, hereinafter called general officers, shall each be in charge of a department. There shall also be a director of administration, a director of revenue, a director of public safety, ~~a director of human services, a director of mental health, retardation, and hospitals,~~ a director of transportation, a director of business regulation, a director of labor and training, a director of environmental management, a director of health and human services, ~~a director for children, youth, and families, a director of elderly affairs,~~ and a director of corrections. Each director shall hold office at the pleasure of the governor and he or she shall serve until his or her successor is duly appointed and qualified unless the director is removed from office by special order of the governor.

42-6-3. Appointment of directors. -- (a) At the January session following his or her election to office, the governor shall appoint a director of administration, a director of revenue, a director of public safety, ~~a director of human services,~~ a director of health and human services, ~~a director of mental health, retardation, and hospitals,~~ a director of transportation, a director of business regulation, a director of labor and training, a director of environmental management, ~~a director for children, youth, and families, a director of elderly affairs,~~ and a director of corrections. The governor shall, in all cases of appointment of a director while the senate is in session, notify the senate of his or her appointment and the senate shall, within sixty (60) legislative days after receipt of the notice, act upon the appointment. If the senate shall, within sixty (60) legislative days, vote to disapprove the appointment it shall so notify the governor, who shall forthwith appoint and notify the senate of the appointment of a different person as director and so on in like manner until the senate shall fail to so vote disapproval of the governor's appointment. If the senate shall fail, for sixty (60) legislative days next after notice, to act upon any appointment of which it has been notified by the governor, the person so appointed shall be the director. The governor may withdraw any appointment of which he or she has given notice to the senate, at any time within sixty (60) legislative days thereafter and before action has been taken thereon by the senate.

(b) ~~Except as expressly provided in section 42-6-9, no~~ No director of any department shall be appointed or employed pursuant to any contract of employment for a period of time greater than the remainder of the governor's current term of office. Any contract entered into in violation of this section after July 1, 1994 is hereby declared null and void.

SECTION 4. Sections 42-6-9, 42-6-10, 42-6-11, 42-6-12 and 42-6-13 of the General Laws in Chapter 42-6 entitled "Departments of State Government" are hereby repealed.

~~42-6-9. Director of health. -- There shall be a director of health who shall hold office for the term of five (5) years from the time of his or her appointment and until his or her successor is duly appointed and qualified. The director shall be eligible for reappointment, and shall not engage in any other occupation.~~

~~42-6-10. Qualifications of director of health. -- The director of health shall be a physician graduated by an acceptable medical college recognized by one of the medical examining boards of the state and shall have had a minimum of one year of university graduate instruction in public health administration as evidenced by a certificate of graduation or a degree in public health, or board certification in a medical specialty and a minimum of five (5) years full time experience in health administration.~~

~~42-6-11. Appointment. -- The governor shall appoint a director of health and in all cases of appointment of the director of health the governor shall while the senate is in session, notify the senate of his or her appointment and the senate shall, within sixty (60) legislative days after receipt of the notice, act upon the appointment. If the senate shall, within sixty (60) legislative days, vote to disapprove the appointment it shall notify the governor, who shall forthwith appoint and notify the senate of the appointment of a different person as director and so on in like manner until the senate shall fail to vote disapproval of the governor's appointment. If the senate shall fail, for sixty (60) legislative days next after notice, to act upon any appointment of which it has been notified by the governor, the person appointed shall be the director. The governor may withdraw any appointment of which he or she has given notice to the senate, at any time within sixty (60) legislative days thereafter and before action has been taken thereon by the senate.~~

~~42-6-12. Filling of vacancies. -- Any vacancy in the office of director of health shall be filled in the same manner as provided in section 42-6-4.~~

~~42-6-13. Assignment and performance of powers, duties and functions. -- The provisions of sections 42-6-5 -- 42-6-8, shall apply to the department of health and to the director of health.~~

SECTION 5. This act shall take effect February 1, 2011.

Motion: To find harmful unless amended to require the development of a plan to be presented to the incoming Governor & General Assembly **10 S 2102 An Act Relating to State Affairs and Government – Office of Health and Human Services** RB/TF passed Abstained LG.

20. Elaina Goldstein, Tim Flynn	**10 H FY 11 Budget Article 24 RELATING TO TREATMENT ALTERNATIVES TO STREET CRIME** Requested by the Governor House Finance Committee This article would eliminate the Treatment Alternatives to Street Crime (TASC) program as a requirement for persons who are initially convicted with a controlled substance; eliminates the program as a public substance abuse care agency defined within the continuum of care network; eliminates the program as a participant agency for individuals convicted of a violation under RIGL 31-27-2 {Driving under influence of liquor or drugs}; and transfers responsibility for conducting a clinical assessment of individuals convicted of a driving under influence of liquor or drugs violation from a facility approved by the department of mental health retardation and hospitals to the community college of Rhode Island center for workforce and community education. This article would take effect upon passage.

ARTICLE 24

RELATING TO TREATMENT ALTERNATIVES TO STREET CRIME

SECTION 1. Section 21-28-4.01 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances Act" is hereby amended to read as follows:

§ 21-28-4. 01. Prohibited acts A—Penalties. -(a)(1) Except as authorized by this chapter, it shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver acontrolled substance.

(2) Any person who is not a drug addicted person, as defined in § 21-28-1.02(18), who violates this subsection with respect to a controlled substance classified in schedule I or II, except the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned to a term up to life, or fined not more than five hundred thousand dollars ($500,000) nor less than ten thousand dollars ($10,000), or both.

(3) Where the deliverance as prohibited in this subsection shall be the proximate cause of death to the person to whom the controlled substance is delivered, it shall not be a defense that the person delivering the substance was at the time of delivery, a drug addicted person as defined in § 21-28-1.02(18).

(4) Any person, except as provided for in subdivision (2) of this subsection, who violates this subsection with respect to:

(i) A controlled substance classified in schedule I or II, is guilty of a crime and upon conviction may be imprisoned for not more than thirty (30) years, or fined not more than one hundred thousand dollars ($100,000) nor less than three thousand dollars ($3,000), or both;

(ii) A controlled substance classified in schedule III or IV, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than forty thousand dollars ($40,000), or both; provided, with respect to a controlled substance classified in schedule III(d), upon conviction may be imprisoned for not more than five (5) years, or fined not more than twenty thousand dollars ($20,000), or both.

(iii) A controlled substance classified in schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, or fined not more than ten thousand dollars ($10,000), or both.

(b)(1) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(2) Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in schedule I or II, is guilty of a crime and upon conviction may be imprisoned for not more than thirty (30) years, or fined not more than one hundred thousand dollars ($100,000), or both;

(ii) A counterfeit substance classified in schedule III or IV, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than forty thousand dollars ($40,000), or both; provided, with respect to a controlled substance classified in schedule III(d), upon conviction may be imprisoned for not more than five (5) years, or fined not more than twenty thousand dollars ($20,000) or both.

(iii) A counterfeit substance classified in schedule V, is guilty of a crime and upon convictionmay be imprisoned for not more than one year, or fined not more than ten thousand dollars ($10,000), or both.

(c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Any person who violates this subsection with respect to:

(i) A controlled substance classified in schedules I, II and III, IV, and V, except the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than three (3) years or fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or both;

(ii) A controlled substance classified in schedule I as marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one year or fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or both.

(3) Additionally every person convicted or who pleads nolo contendere under paragraph (2)(i) of this subsection or convicted or who pleads nolo contendere a second or subsequent time under paragraph (2)(ii) of this subsection, who is not sentenced to a term of imprisonment to serve for the offense, shall be required to:

(i) Perform no less than one hundred (100) hours of community service;

(ii)~~ Be referred to Treatment Alternatives to Street Crime (TASC) to determine the existence of problems of drug abuse. Should TASC determine the person needs treatment, it will arrange for the treatment to be provided and after completion of the treatment, the person shall perform his or her required community service and attend the drug education program;~~

~~(iii)~~ Attend and complete a drug counseling and education program as prescribed by the director of the department of ~~health~~ mental health, retardation and hospitals and pay the sum of four hundred dollars ($400) to help defray the costs of this program which shall be deposited as general revenues.

Failure to attend may result after hearing by the court in jail sentence up to one year;

~~(iv)~~(iii)The court shall not suspend any part or all of the imposition of the fee required by this subsection, unless the court finds an inability to pay;

~~(v)~~(iv) If the offense involves the use of any automobile to transport the substance or the substance is found within an automobile, then a person convicted or who pleads nolo contendere under paragraphs (2)(i) and (ii) of this subsection shall be subject to a loss of license for a period of six (6) months for a first offense and one year for each offense after this.

(4) All fees assessed and collected pursuant to paragraph (3)~~(iii)~~(ii) of this subsection shall bedeposited as general revenues and shall be collected from the person convicted or who pleads nolo contendere before any other fines authorized by this chapter.

(d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to manufacture or distribute, an imitation controlled substance. Any person who violates this subsection is guilty of a crime, and upon conviction shall be subject to the same term of imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the controlled substance which the particular imitation controlled substance forming the basis of the prosecution was designed to resemble and/or represented to be; but in no case shall the imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars ($20,000).

(e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an anabolic steroid or human growth hormone for: (1) enhancing performance in an exercise, sport, or game, or (2) hormonal manipulation intended to increase muscle mass, strength, or weight without a medical necessity.

Any person who violates this subsection is guilty of a misdemeanor and upon conviction may be imprisoned for not more than six (6) months or a fine of not more than one thousand dollars ($1,000), or both.

SECTION 2. Section 31-27-2 of the General Laws in Chapter 31-27 entitled “Motor Vehicle Offenses” is hereby amended to read as follows:

§ 31-27-2. Driving under influence of liquor or drugs. - (a) Whoever drives or otherwise operates any vehicle in the state while under the influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3) and shall be punished as provided in subsection (d) of this section.

(b)(1) Any person charged under subsection (a) of this section whose blood alcohol concentration is eight one-hundredths of one percent (.08%) or more by weight as shown by a chemical analysis of a blood, breath, or urine sample shall be guilty of violating subsection (a) of this section. This provision shall not preclude a conviction based on other admissible evidence. Proof of guilt under this section may also be based on evidence that the person charged was under the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these, to a degree which rendered the person incapable of safely operating a vehicle. The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this section.

(2) Whoever drives or otherwise operates any vehicle in the state with a blood presence of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as provided in subsection (d) of thissection.

(c) In any criminal prosecution for a violation of subsection (a) of this section, evidence as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance shall be admissible and competent, provided that evidence is presented that the following conditions have been complied with: (1) The defendant has consented to the taking of the test upon which the analysis is made.

Evidence that the defendant had refused to submit to the test shall not be admissible unless the defendant elects to testify.

(2) A true copy of the report of the test result was mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath test.

(3) Any person submitting to a chemical test of blood, urine, or other body fluids shall have a true copy of the report of the test result mailed to him or her within thirty (30) days following the taking of the test.

(4) The test was performed according to methods and with equipment approved by the director of the department of health of the state of Rhode Island and by an authorized individual.

(5) Equipment used for the conduct of the tests by means of breath analysis had been tested for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore provided, and breathalyzer operators shall be qualified and certified by the department of health within three hundred sixty-five (365) days of the test.

(6) The person arrested and charged with operating a motor vehicle while under the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or, any combination of these in violation of subsection (a) of this section was afforded the opportunity to have an additional chemical test. The officer arresting or so charging the person shall have informed the person of this right and afforded him or her

a reasonable opportunity to exercise this right, and a notation to this effect is made in the official records of the case in the police department. Refusal to permit an additional chemical test shall render incompetent and inadmissible in evidence the original report.

(d)(1)(i) Every person found to have violated subdivision (b)(1) of this section shall be sentenced as follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one percent (.08%) but less than one-tenth of one percent (.1%) by weight or who has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2) shall be subject to a fine of not less than one hundred dollars ($100) nor more than three hundred dollars ($300), shall be required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be imprisoned for up to one year.

The sentence may be served in any unit of the adult correctional institutions in the discretion of thesentencing judge and/or shall be required to attend a special course on driving while intoxicated or under the influence of a controlled substance, and his or her driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days.

(ii) Every person convicted of a first violation whose blood alcohol concentration is one-tenth of one percent (.1%) by weight or above but less than fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown shall be subject to a fine of not less than one hundred ($100) dollars nor more than four hundred dollars ($400) and shall be required to perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge. The person's driving license shall be suspended for a period of three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and/or alcoholic or drug treatment for the individual.

(iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to a fine of five hundred dollars ($500) and shall be required to perform twenty (20) to sixty (60) hours of public community restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge. The person's driving license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing judge shall require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for the individual.

(2)(i) Every person convicted of a second violation within a five (5) year period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above but less than fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown or who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every person convicted of a second violation within a five (5) year period regardless of whether the prior violation and subsequent conviction was a violation and subsequent conviction under this statute or under the driving under the influence of liquor or drugs statute of any other state, shall be subject to a mandatory fine of four hundred dollars ($400). The person's driving license shall be suspended for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten (10) days nor more than one year in jail. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug treatment for the individual, and may prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system for a period of oneyear to two (2) years following the completion of the sentence as provided in § 31-27-2.8.

(ii) Every person convicted of a second violation within a five (5) year period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to mandatory imprisonment of not less than six (6) months nor more than one year, a mandatory fine of not less than one thousand dollars ($1,000) and a mandatory license suspension for a period of two (2) years from the date of completion of the sentence imposed under this subsection.

(3)(i) Every person convicted of a third or subsequent violation within a five (5) year period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above but less than fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown or who has a blood presence of any

scheduled controlled substance as defined in subdivision (b)(2) regardless of whether any prior violation and subsequent conviction was a violation and subsequent conviction under this statute or under the driving under the influence of liquor or drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of four hundred ($400) dollars. The person's driving license shall be suspended for a period of two (2) years to three (3) years, and the individual shall be sentenced to not less than one year and not more than three (3) years in jail. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge; however, not less than forty eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug treatment for the individual, and may prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system for a period of two (2) years following the completion of the sentence as provided in § 31-27-2.8.

(ii) Every person convicted of a third or subsequent violation within a five (5) year period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the influence of a drug, toluene or any controlled substance as defined in subdivision (b)(1) shall be subject to mandatory imprisonment of not less than three (3) years nor more than five (5) years, a mandatory fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) and a mandatory license suspension for a period of three (3) years from the date of completion of the sentence imposed under this subsection.

(iii) In addition to the foregoing penalties, every person convicted of a third or subsequent violation within a five (5) year period regardless of whether any prior violation and subsequent conviction was a violation and subsequent conviction under this statute or under the driving under the influence of liquor or drugs statute of any other state shall be subject, in the discretion of the sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the state of Rhode Island, withall funds obtained by the sale to be transferred to the general fund.

(4)(i) For purposes of determining the period of license suspension, a prior violation shall constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

(ii) Any person over the age of eighteen (18) who is convicted under this section for operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of these, while a child under the age of thirteen (13) years was present as a passenger in the motor vehicle when the offense was committed may be sentenced to a term of imprisonment of not more than one year and further shall not be entitled to the benefit of suspension or deferment of this sentence. The sentence imposed under this section may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge.

(5)(i) Any person convicted of a violation under this section shall pay a highway assessment fine of five hundred dollars ($500) which shall be deposited into the general fund. The assessment provided for by this subsection shall be collected from a violator before any other fines authorized by this section.

(ii) Any person convicted of a violation under this section shall be assessed a fee. The fee shall be as follows:

FISCAL YEAR 1993-1995	FISCAL YEAR 1996-1999	FISCAL YEAR 2000-2010
$147	$173	$86

(6)(i) If the person convicted of violating this section is under the age of eighteen (18) years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of public community restitution, and the juvenile's driving license shall be suspended for a period of six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing judge shall also require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile. The juvenile may also be required to pay a highway assessment fine of no more than five hundred dollars ($500), and the assessment imposed shall be deposited into the general fund.

(ii) If the person convicted of violating this section is under the age of eighteen (18) years, for a second or subsequent violation regardless of whether any prior violation and subsequent conviction was a violation and subsequent under this statute or under the driving under the influence of liquor or drugs statute of any other state, he or she shall be subject to a mandatory suspension of his or her driving license until such time as he or she is twenty-one (21) years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode Island training school for a period of not more than one year and/or a fine of not more than five hundred dollars ($500).

(7) Any person convicted of a violation under this section may undergo ~~a clinical assessment at afacility approved by the department of mental health retardation and hospitals~~ the community college of Rhode Island

and it's center for workforce and community education. Should this clinical assessment determine problems of alcohol, drug abuse, or psychological problems associated with alcoholic or drug abuse, this person shall be referred to the ~~T.A.S.C. (treatment alternatives to street crime) program~~ an appropriate facility, licensed or approved by the department of mental health, retardation and hospitals for treatment placement, case management, and monitoring.

(e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred (100) cubic centimeters of blood.

(f)(1) There is established an alcohol and drug safety unit within the division of motor vehicles to administer an alcohol safety action program. The program shall provide for placement and follow-up for persons who are required to pay the highway safety assessment. The alcohol and drug safety action program will be administered in conjunction with alcohol and drug programs ~~within~~ licensed by the department of mental health retardation and hospitals.

(2) Persons convicted under the provisions of this chapter shall be required to attend a special course on driving while intoxicated or under the influence of a controlled substance, and/or participate in an alcohol or drug treatment program. The course shall take into consideration any language barrier which may exist as to any person ordered to attend, and shall provide for instruction reasonably calculated to communicate the purposes of the course in accordance with the requirements of the subsection. Any costs reasonably incurred in connection with the provision of this accommodation shall be borne by the person being retrained. A copy of any violation under this section shall be forwarded by the court to the alcohol and drug safety unit. In the event that persons convicted under the provisions of this chapter fail to attend and complete the above course or treatment program, as ordered by the judge, then the person may be brought before the court, and after a hearing as to why the order of the court was not followed, may be sentenced to jail for a period not exceeding one year.

(3) The alcohol and drug safety action program within the division of motor vehicles shall be funded by general revenue appropriations.

(g) The director of the health department of the state of Rhode Island is empowered to make and file with the secretary of state regulations which prescribe the techniques and methods of chemical analysis of the person's body fluids or breath, and the qualifications and certification of individuals authorized to administer this testing and analysis.

(h) Jurisdiction for misdemeanor violations of this section shall be with the district court for persons eighteen (18) years of age or older and to the family court for persons under the age of eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to order the suspension of any license for violations of this section. All trials in the district court and family court ofviolations of the section shall be scheduled within thirty (30) days of the arraignment date. No continuance or postponement shall be granted except for good cause shown. Any continuances that are necessary shall be granted for the shortest practicable time. Trials in superior court are not required to be scheduled within thirty (30) days of the arraignment date.

(i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on driving while intoxicated or under the influence of a controlled substance, public community restitution, or jail provided for under this section can be suspended.

(j) An order to attend a special course on driving while intoxicated that shall be administered in cooperation with a college or university accredited by the state, shall include a provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars ($25.00), and a fee of one hundred seventy-five dollars ($175), which fee shall be deposited into the general fund.

(k) For the purposes of this section, any test of a sample of blood, breath, or urine for the presence of alcohol, which relies in whole or in part upon the principle of infrared light absorption is considered a chemical test.

(l) If any provision of this section or the application of any provision shall for any reason be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of the section, but shall be confined in this effect to the provision or application directly involved in the controversy giving rise to the judgment.

SECTION 3. Section 42-109-9 of the General Laws in Chapter 42-109 entitled "Omnibus Substance Abuse Prevention Act" is hereby amended to read as follows:

§ 42-109-9. Legislative oversight commission. - (a) There is created a legislative commission entitled "Legislative Oversight Commission on Special Substance Abuse Programs", the purpose of which shall be to oversee the implementation and administration of all moneys and programs involving the Benjamin Rush Detox Program, and the Driving While Intoxicated Program, ~~and the TASC Program,~~ and to report to the

director of the department of mental health, retardation, and hospitals and to the general assembly with advice and recommendations as to the adequacy, efficacy and efficiency of all statutes, rules, regulations, guidelines, practices, and programs relating to those substance abuse programs, and any other matters it deems appropriate.

(b) The commission shall consist of five (5) members: two (2) of whom shall be appointed by the president of the senate as follows: one member who shall be a physician licensed to practice medicine in this state and whose medical practice concentrates on substance abuse treatment and prevention; one member who shall be a registered nurse (R.N.) who is licensed in this state and concentrates in substance abuse treatment and prevention; three (3) of whom shall be appointed by the speaker of the house as follows: one member who shall be a certified chemical dependency professional (C.C.D.P.), one memberwho shall be clinical supervisor of a private or public substance abuse treatment and prevention clinic; and one member who shall be an executive director of a private or public substance abuse treatment agency; provided, however, that no member of the general assembly shall be appointed to the commission. The chairperson of the commission shall be appointed by the speaker of the house of representatives. Members of the commission shall serve without compensation. The commission may request and shall receive from any instrumentality of the state, including the department of mental health, retardation, and hospitals, department of children, youth, and families, department of human services and other departments as the commission sees fit and from any municipality or any instrumentality thereof, any information and assistance that it deems necessary for the proper execution of its powers and duties under this section. The commission shall meet at least quarterly and shall report at least annually to the general assembly on its findings and recommendations with respect to any matters relating to those substance abuse treatment programs listed herein.

(c) The commission shall operate in conjunction with the permanent legislative oversight commission on substance abuse prevention established pursuant to the provisions of § 16-21.2-9 and with the permanent legislative oversight commission on substance abuse treatment established pursuant to the provisions of § 40.1-1-12; provided, however, that primary oversight of the Benjamin Rush Detox Program, and the Driving While Intoxicated Program~~, and the TASC Program~~ shall be the function of the commission established in this section.

SECTION 4. This article shall take effect upon passage.

	MOTION: To tabled until the next meeting for additional information **FY 11 Budget Article 24 Relating to Treatment Alternatives to Street Crime**
	C. Tabled for More Information **10 min.**
41. Linda Ward	**[**for more information from EOHHS] **FY 11 BUDGET ARTICLE 20 RELATING TO MEDICAL ASSISTANCE** Requested by the Governor House Finance Committee This article would provide a framework for the procurement and/or reprocurement of Medicaid managed care contracts for elderly and disabled residents (including those for managed long-term care) in FY 2011. Managed care systems may also include services and supports that optimize the health and independence of recipients who are determined to need Medicaid funded long-term care under § 40-8.10 {Long Term Care Service Reform for Medicaid Eligible Individuals} or to be at risk for such care under applicable rules and regulations. The department would be authorized to obtain any approval for category II or III changes. Those category II or III changes would include authorization to extend managed care to cover long-term care services and supports. This article would also authorize selective contracting for non-emergency transportation for Medicaid recipients. This article would take effect upon passage.

Announcements and Scheduling of Meetings	**Chairperson**	**5 min.**
The Legislation Committee meets the 2nd Monday 3 – 4:30 PM: 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.		
Next meeting will be on:	March 8, 2010	Starting at: 3 PM
Adjournment:	Chairperson adjourned the meeting at 5:07	
Resource persons:	Bob Cooper, Committee Staff & Morgan Fuchs (GCD Fellow)	