



Description of graphic: RI State Seal an anchor in gold behind a blue wheelchair logo. Just below is a blue banner with the state motto "Hope". All are in the center of a ring of 8 blue stars, in groups of 2 separated by the logos for Braille, hearing aids, low vision and amplified phone.

# Governor's Commission on Disabilities Legislation Committee

**Monday March 12, 2012 3-4:30 PM**

John O. Pastore Center, 41 Cherry Dale Court,  
Cranston, RI 02920-3049

(voice) 401-462-0100 (fax) 462-0106 (tty) via RI Relay 711

(e-mail) [disabilities@gcd.ri.gov](mailto:disabilities@gcd.ri.gov)

(website) [www.disabilities.ri.gov](http://www.disabilities.ri.gov)



meeting graphic

**Attendees:** Linda Ward (Chair.); Sharon Brinkworth; Rosemary C. Carmody; Heather Daglieri; Julie DeRosa; Linda Deschenes; Roger Harris; Kathleen Heren; Paula Parker; Arthur M. Plitt; Angelina Stabile;  
**Absentees:** William R. Inlow (Vice Chair.); Sarah Everhart Skeels; Timothy Flynn; Elaina Goldstein; Kate McCarthy-Barnett; Gwendolyn Reeve; Msgr. Gerard O. Sabourin; Theresa Thoeke; & Dawn Wardyga

**Staff:** Bob Cooper & Jessica Burrows

	Agenda Topics	Moderator/Leader	Time
	<b>Call to Order and Acceptance of the Minutes</b>	Linda Ward, Chairperson	3:00
	Executive Secretary calls the meeting to order at 3:07		

**MOTION:** To accept the minutes of the previous meeting as presented RH/KH passed

## Action Items:

	<b>Bills Tabled for More Information</b>		3:05
	Discussion: The tabled bill 12 H 7806 on Criminal Background Checks will be taken up with all the other BCI related bills, below.		

	<b>Consideration of New Bills/Budget Articles</b>	<b>Bob Cooper, Executive Secretary</b>	3:30
	Purpose/Goal: To determine the impact of legislation on people with disabilities		
	Discussion: 12 H 7795 AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS by Rep. Galliso This act would allow consumers the right to decline the installation of a wireless electric meter and substitute a wired smart meter. This act would take effect upon passage.		

- 1-1 SECTION 1. Section 39-3-8 of the General Laws in Chapter 39-3 entitled "Regulatory  
1-2 Powers of Administration" is hereby amended to read as follows:  
1-3 **39-3-8. Standards for measurement and testing of service.** – (a) The division shall  
1-4 ascertain and fix adequate and serviceable standards for the measurement of the quality, pressure,  
1-5 initial voltage, or other condition pertaining to the supply of the product or service rendered by  
1-6 any public utility, and prescribe reasonable regulations for the examination and testing of the  
1-7 product or service and for the measurement thereof. It shall establish reasonable rules,  
1-8 regulations, specifications, and standards to secure accuracy of all meters and appliances for

1-9 measurement, and every public utility is required to carry into effect all orders issued by the  
1-10 division relative thereto.

1-11 (b) A transmission and distribution utility may not install a wireless smart meter unless  
1-12 approved by the commission. Upon petition by a transmission and distribution utility, the  
1-13 commission shall open a proceeding to establish the terms and conditions under which the utility  
1-14 may install wireless smart meters. The terms and conditions must include, but are not limited to,  
1-15 provisions allowing a customer, at no cost to that customer:

1-16 (1) To decline the installation of the wireless smart meter; or

1-17 (2) To have a wired smart meter installed as an alternative to the wireless smart meter.

1-18 (c) Definitions, as used in this section, unless the context otherwise indicates, the  
1-19 following terms have the following meanings:

2-20 (1) "Wired smart meter" means an advanced metering infrastructure device using a fixed  
2-21 wire for 2-way communication between the device and a transmission and distribution utility.

2-22 (2) "Wireless smart meter" means an advanced metering infrastructure device using radio  
2-23 or other wireless means for 2-way communication between the device and a transmission and  
2-24 distribution utility.

2-25 SECTION 2. This act shall take effect upon passage.

The Chair takes over presiding.



voting check  
off graphic

**MOTION: To find 12 H 7795 AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS beneficial AS/RH passed, Abstaining LD,PP, HD**

Discussion: 12 H 7806 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT by Rep. Naughton Requested by the Attorney General

This act would create a new chapter entitled "Criminal Background Check Act" that would provide for national background checks for all persons applying to be direct patient access employees in a long-term care facility or provider, including, but not limited to, those facilities licensed under chapters 23-17, 23-17.4, 23-17.7.1 and 40.1-24.

This act would take effect on January 1, 2013.

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

1-3 **CHAPTER 9.4**

1-4 **CRIMINAL BACKGROUND CHECK ACT**

1-5 **42-9.4-1. Definitions.** – As used in this chapter:

1-6 (1) "Adult" means a person eighteen (18) years of age or older.

1-7 (2) "Applicant" or "Direct Patient Access Applicant" means a person applying to be a  
1-8 direct patient access employee at a covered facility or a person providing services under chapter  
1-9 40-8.1.

1-10 (3) "Attorney General" means the attorney general of the state of Rhode Island, or his or  
1-11 her designee.

1-12 (4) "Criminal Background Check" means a national criminal records check that shall  
1-13 include fingerprints submitted to the federal bureau of investigation (FBI).

1-14 (5) "Conviction" means, in addition to judgments of conviction entered by a court  
1-15 subsequent to a finding of guilty or a plea of guilty, those instances where the defendant has  
1-16 entered a plea of nolo contendere and has received a sentence of probation and those instances  
1-17 where a defendant has entered into a deferred sentence agreement.

1-18 (6) "Covered Facility" means:

1-19 (i) A nursing facility; a home nursing care provider; a home care provider; or a hospice  
1-20 service that is or is required to be licensed, registered or certified with the state pursuant to  
2-1 chapter 23-17;

2-2 (ii) An assisted living residence that is or is required to be licensed with the state pursuant  
2-3 to chapter 23-17.4;

2-4 (iii) A nursing services agency that is or is required to be licensed with the state pursuant  
2-5 to chapter 23-17.7.1;

2-6 (iv) Any facility or program licensed by the department of behavioral healthcare,  
2-7 developmental disabilities and hospitals pursuant to chapter 40.1-24;  
2-8 (v) Any facility or program operated by the department of behavioral healthcare,  
2-9 developmental disabilities and hospitals; and  
2-10 (vi) Any other long-term care facility or provider.  
2-11 (7) “Day(s)” means calendar days.  
2-12 (8) “Department” means the Rhode Island department of attorney general.  
2-13 (9) “BCI” means the bureau of criminal identification of the department of attorney  
2-14 general.  
2-15 (10) “Direct Patient Access Employee” means:  
2-16 (i) A person who has access to a patient or resident of a covered facility through  
2-17 employment or through a contract with such covered facility and has duties that involve or may  
2-18 involve one-on-one contact with a patient or resident of the covered facility; or  
2-19 (ii) A person who has access to the belongings or funds of a patient or resident of a  
2-20 covered facility through employment or through a contract with such covered facility.  
2-21 (iii) These provisions do not include volunteers unless the volunteer has duties that are  
2-22 equivalent to the duties of a direct patient access employee and those duties involve or may  
2-23 involve one-on-one contact with a patient or resident of the covered facility.  
2-24 (11) “EOHHS” means the Rhode Island executive office of health and human services, or  
2-25 its designee.  
2-26 (12) “Livescan Vendor” means an entity whose equipment has been certified by the  
2-27 department to collect an individual’s demographics and inkless fingerprints and, in a manner  
2-28 prescribed by the department, electronically transmit the fingerprints and a daily file of required  
2-29 data to the department. The department shall negotiate a contract with one or more vendors that  
2-30 effectively demonstrate that the vendor has demonstrated sufficient experience transmitting  
2-31 fingerprints electronically to the department and that the vendor can successfully transmit the  
2-32 required data in a manner prescribed by the department.  
2-33 (13) “Long-term Care Facility or Provider” means a facility or provider that receives  
2-34 payment for services under title XVIII or XIX of the Social Security Act and is:  
3-1 (i) A long-term care hospital (as described in section 1886(d)(1)(B)(iv) of the Social  
3-2 Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv));  
3-3 (ii) A provider of personal care services as defined in the state’s waiver under Title XIX  
3-4 of the Social Security Act relating to the provision of home and community-based services;  
3-5 (iii) A provider of adult day care; or  
3-6 (iv) An intermediate care facility for the mentally retarded (as defined in section 1905(d)  
3-7 of the Social Security Act (42 U.S.C. 1396d(d)).  
3-8 (14) “Provisionally employed” means that the applicant is employed by a covered facility  
3-9 or provides services as provided in chapter 40-8.1, during a period of time after the applicant’s  
3-10 fingerprints have been submitted for the processing of a criminal background check, but before  
3-11 the results of the criminal background check have been received. During this time, the applicant  
3-12 shall not have supervisory or disciplinary power or routine contact with patients or residents  
3-13 without the presence of others.  
3-14 **42-9.4-2. Criminal Background Check.** – (a) Any adult person seeking employment in  
3-15 any covered facility as a direct patient access employee or who provides services as a direct  
3-16 patient access employee as provided in chapter 40-8.1, whether compensated or not, shall  
3-17 undergo a criminal background check to be processed prior to employment or providing such  
3-18 services, except as otherwise provided in this section. All persons who, as of January 1, 2013, are  
3-19 already employed by a covered facility and all persons who, as of such date, already provide  
3-20 services under chapter 40-8.1 shall be exempted from the requirements of this section for  
3-21 purposes of their current employment only.  
3-22 (b) The applicant shall apply to the BCI for a criminal background check. The BCI may  
3-23 utilize a Livescan vendor as a designee to fulfill the requirements of this chapter.  
3-24 (c) If the results of the criminal background check have not been received within seven  
3-25 (7) days, upon verification that an applicant has submitted his or her fingerprints for the  
3-26 processing of a criminal background check, the applicant may be provisionally employed by the

3-27 covered facility or provide services under chapter 40-8.1 until the results of the criminal  
3-28 background check are completed, but in no case may this exceed sixty (60) days.

3-29 (d) Upon the discovery of any disqualifying information, as defined in section 42-9.4-3  
3-30 and in accordance with the rules and regulations promulgated by the department, the BCI shall  
3-31 inform the applicant of the nature of the disqualifying information; and, without disclosing the  
3-32 nature of the disqualifying information, shall notify the covered facility that disqualifying  
3-33 information has been discovered. The disqualification notice shall include notice of the  
3-34 applicant's right to appeal the denial or termination of employment and that the applicant may  
4-1 request an appeal of denial or termination of employment as provided in section 42-9.4-4. If a  
4-2 covered facility provisionally employed an applicant as provided in subsection (c), upon the  
4-3 covered facility's receipt of the disqualification notice, the covered facility must terminate the  
4-4 applicant's employment within fourteen (14) days, unless the applicant requests an appeal in  
4-5 accordance with section 42-9.4-4 and, in doing so, requests to remain provisionally employed  
4-6 while the appeal is reviewed. Upon receipt of an applicant's request to remain provisionally  
4-7 employed during the appeal process, the department or the EOHHS shall inform the relevant  
4-8 covered facility that the disqualified individual has requested an appeal and advise the covered  
4-9 facility that the individual may remain provisionally employed until the date the covered facility  
4-10 receives the department's or EOHHS's written decision or until the applicant has been employed  
4-11 for sixty (60) days, whichever date is earlier. In those situations in which no disqualifying  
4-12 information has been found, the BCI shall inform the applicant, the covered facility, and EOHHS  
4-13 of this fact.

4-14 (e) The covered facility shall initiate a criminal background check on all direct patient  
4-15 access applicants, the results of which will be maintained by the BCI. Failure to initiate criminal  
4-16 background checks on any prospective direct patient access employee would be grounds to  
4-17 revoke the license or registration of the covered facility. The covered facility shall maintain on  
4-18 file, subject to inspection by the EOHHS, evidence that criminal background checks have been  
4-19 initiated on all direct patient access employees employed by or performing services at or for the  
4-20 covered facility after the date specified in this subsection, and the results of such checks. Failure  
4-21 to maintain that evidence would be grounds to revoke the license or registration of the covered  
4-22 facility. The date specified in this subsection is either:

4-23 (1) October 1, 1991, if the covered facility is a nursing facility, a home nursing care  
4-24 provider, a home care provider, or an assisted living residence; or

4-25 (2) January 1, 2013, if the covered facility is any other type of facility, program, or  
4-26 provider.

4-27 (f) It shall be the responsibility of the applicant to pay for the criminal background check  
4-28 fees. The fees shall be established by rules and regulations promulgated pursuant to section 42-  
4-29 9.4-9 of this chapter.

4-30 **42-9.4-3. Disqualifying information.** – (a) Information produced by a criminal  
4-31 background check pertaining to a conviction for the following crimes will disqualify the applicant  
4-32 from employment:

4-33 (1) The following offenses are considered level one offenses: Murder, manslaughter, first  
4-34 degree sexual assault, second degree sexual assault, assault on persons sixty (60) years of age or  
5-1 older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the  
5-2 abominable and detestable crime against nature), felony assault, patient abuse, neglect or  
5-3 mistreatment of patients, burglary, first degree arson, robbery, any felony involving the illegal  
5-4 manufacture, sale or delivery of a controlled substance, or possession with intent to manufacture,  
5-5 sell or deliver a controlled substance, felony obtaining money under false pretenses, felony  
5-6 embezzlement, abuse, neglect and/or exploitation of adults with severe impairments, exploitation  
5-7 of elders, felony larceny, or felony banking law violations, or a crime under section 1128(a) of  
5-8 the Social Security Act (42 U.S.C. 1320a-7(a)).

5-9 (2) The following offenses are considered level two offenses: Felony drug possession and  
5-10 third degree sexual assault.

5-11 **42-9.4-4. Appeal of Denial or Termination of Employment.** – (a) An applicant who  
5-12 has been denied or terminated from employment due to receiving a disqualification notice may  
5-13 appeal such denial or termination. The appeal procedure shall be dependent on whether the nature

5-14 of the disqualification is a level one or a level two offense.  
5-15 (b) If the applicant's disqualification is based on a level one offense, the appeal shall be  
5-16 limited only to the accuracy of the information provided in the criminal background check.  
5-17 (1) The applicant must submit a request for appeal in writing to the department within  
5-18 (14) days of the applicant's receipt of the disqualification notice provided in subsection 42-9.4-  
5-19 2(d). In the request, the applicant must include a copy of his or her disqualification notice that  
5-20 identifies the specific disqualifying offense and provide evidence that he or she was not convicted  
5-21 of the disqualifying offense.  
5-22 (2) Within thirty (30) days of receipt of the applicant's request, the department shall  
5-23 review the applicant's submitted materials and conduct a hearing for the applicant to demonstrate  
5-24 that the information contained in the disqualification notice was inaccurate.  
5-25 (3) The department must deny the appeal if the applicant failed to submit a timely request  
5-26 for appeal or if the applicant fails to demonstrate that the information contained in the  
5-27 disqualification notice was inaccurate. Upon denial, the department shall notify, in writing, the  
5-28 applicant, the covered facility, and EOHHS that the disqualification was not overturned due to the  
5-29 information in the criminal background check being found accurate or because the applicant  
5-30 failed to submit a timely request.  
5-31 (4) The department shall overturn the disqualification if it finds that the information  
5-32 provided in the criminal background check is inaccurate. If an applicant's disqualification is  
5-33 overturned, the department shall notify the applicant, the covered facility, and EOHHS of the  
5-34 decision in writing. In such decision, the department must inform the applicant, the covered  
6-1 facility, and EOHHS that the information relied upon to disqualify the applicant was inaccurate.  
6-2 (c) If the applicant's disqualification is based on a level two offense, the appeal shall  
6-3 consider whether the disqualification should be overturned due to any or some combination of the  
6-4 following factors: the passage of time since the disqualifying conviction, extenuating  
6-5 circumstances surrounding the disqualifying conviction, the applicant's demonstration of  
6-6 rehabilitation and the relevancy of the disqualifying information to the employment applied for.  
6-7 (1) The applicant must submit the request for appeal in writing to the EOHHS within  
6-8 fourteen (14) days of the applicant's receipt of the disqualification notice provided in subsection  
6-9 42-9.4-2(d). In the request, the applicant must include a copy of his or her disqualification notice  
6-10 that identifies the specific disqualifying offense and provide evidence that supports the factors in  
6-11 subsection (c).  
6-12 (2) Within thirty (30) days of receipt of the applicant's request, the EOHHS shall review  
6-13 the applicant's submitted materials and conduct a hearing for the applicant to demonstrate that the  
6-14 disqualification should be overturned due to any or some combination of the factors in subsection  
6-15 (c).  
6-16 (3) Upon consideration of the factors in subsection (c), if EOHHS determines that the  
6-17 applicant's disqualification should not be overturned or the applicant failed to submit a timely  
6-18 request for appeal, the EOHHS must deny the appeal. Upon denial, the EOHHS shall notify, in  
6-19 writing, the applicant, the covered facility, and the department that the disqualification was not  
6-20 overturned and the basis for the denial.  
6-21 (4) The EOHHS shall grant the appeal if it finds that the information contained in the  
6-22 applicant's criminal background check and applicant's presentation of pertinent factors in  
6-23 subsection (c) warrant that the applicant's disqualification should be overturned. If an applicant's  
6-24 disqualification is overturned, the EOHHS shall notify the applicant, the covered facility, and the  
6-25 department of the decision in writing and state the specific findings thereto.  
6-26 **42-9.4-5. Automated Fingerprint Identification System Database. - The department**  
6-27 **may establish and maintain an automated fingerprint identification system database that would**  
6-28 **allow the department to store and maintain all fingerprints submitted under this chapter and**  
6-29 **would provide for an automatic notification if and when a subsequent criminal arrest fingerprint**  
6-30 **card submitted into the system matches a set of fingerprints previously submitted under the**  
6-31 **chapter. If the aforementioned arrest results in a conviction, the department shall immediately**  
6-32 **notify each covered facility with which that individual is associated. The information in the**  
6-33 **database established under this section is confidential and is not subject to disclosure under the**  
6-34 **access to public records act, chapter 2 of title 38 of the general laws.**

7-1 **42-9.4-6. Electronic Web-based Registry System.** – The department or EOHHS shall  
7-2 maintain an electronic web-based system to assist covered facilities required to check relevant  
7-3 registries and conduct criminal background checks of direct patient access applicants and to  
7-4 provide for an automated notice to those covered facilities for those persons inputted in the  
7-5 system who, since the initial criminal background check, have been convicted of a disqualifying  
7-6 offense or have been the subject of a substantiated finding of abuse, neglect or misappropriation  
7-7 of property. The department or EOHHS may charge a covered facility a one-time set up fee of up  
7-8 to one hundred dollars (\$100) for access to the electronic web-based system under this section.

7-9 **42-9.4-7. Immunity from liability.** – The department, the EOHHS, and a covered  
7-10 facility who disqualifies an applicant from employment or continued employment on the basis of  
7-11 a disqualification notice as described in subsection 42-9.4-2(d) or of a criminal background check  
7-12 relating to disqualifying information shall not be liable for civil damages or subject to any claim,  
7-13 demand, cause of action, or proceeding of any nature as a result of the disqualification.

7-14 **42-9.4-8. Rules and regulations.** – The department and the EOHHS is authorized to  
7-15 promulgate rules and regulations to carry out the intent of this chapter.

7-16 SECTION 2. Section 23-17-34 of the General Laws in Chapter 23-17 entitled "Licensing  
7-17 of Health Care Facilities" is hereby amended to read as follows:

7-18 **23-17-34. Criminal records review – Nursing facilities – Home nursing care**  
7-19 **providers and home care providers.** – (a) Any adult person seeking employment as a direct  
7-20 patient access employee, whether compensated or not, in a nursing facility, a home nursing care  
7-21 provider, or a home care provider which is or is required to be licensed, registered or certified  
7-22 with the department of health if that employment involves routine contact with a patient or  
7-23 resident without the presence of other employees, shall undergo a criminal background check as  
7-24 provided in chapter 42-9.4 to be initiated prior to or within one week of employment. All  
7-25 employees hired prior to the enactment of this section shall be exempted from the requirements of  
7-26 this section.

7-27 (b) The director of the department of health may by rule identify those positions requiring  
7-28 criminal background checks. ~~The identified employee, through the employer, shall apply to the~~  
7-29 ~~bureau of criminal identification of the state police or local police department for a statewide~~  
7-30 ~~criminal records check. Fingerprinting shall not be required. Upon the discovery of any~~  
7-31 ~~disqualifying information as defined in § 23-17-37 and in accordance with the rule promulgated~~  
7-32 ~~by the director of health, the bureau of criminal identification of the state police or the local~~  
7-33 ~~police department will inform the applicant, in writing, of the nature of the disqualifying~~  
7-34 ~~information; and, without disclosing the nature of the disqualifying information, will notify the~~  
8-1 ~~employer, in writing, that disqualifying information has been discovered.~~

8-2 (c) ~~An employee against whom disqualifying information has been found may request~~  
8-3 ~~that a copy of the criminal background report be sent to the employer who shall make a judgment~~  
8-4 ~~regarding the continued employment of the employee.~~

8-5 (d) ~~In those situations in which no disqualifying information has been found, the bureau~~  
8-6 ~~of criminal identification of the state police or the local police shall inform the applicant and the~~  
8-7 ~~employer, in writing, of this fact.~~

8-8 (c)(e) The employer shall maintain on file, subject to inspection by the department of  
8-9 health, evidence that criminal records checks have been initiated on all employees seeking  
8-10 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence  
8-11 would be grounds to revoke the license or registration of the employer.

8-12 (f) ~~It shall be the responsibility of the bureau of criminal identification of the state police~~  
8-13 ~~or the local police department to conduct the criminal records check to the applicant for~~  
8-14 ~~employment without charge to either the employee or the employer.~~

8-15 SECTION 3. Sections 23-17-37 and 23-17-39 of the General Laws in Chapter 23-17  
8-16 entitled "Licensing of Health Care Facilities" are hereby repealed.

8-17 **23-17-37. Disqualifying information.** – (a) Information produced by a criminal records  
8-18 review pertaining to conviction, for the following crimes will result in a letter to the employee  
8-19 and employer disqualifying the applicant from employment: murder, voluntary manslaughter,  
8-20 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree  
8-21 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit

8-22 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime  
8-23 against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first  
8-24 degree arson, robbery, felony drug offenses, larceny, or felony banking law violations. An  
8-25 employee against whom disqualifying information has been found may request that a copy of the  
8-26 criminal background report be sent to the employer who shall make a judgment regarding the  
8-27 continued employment of the employee.

8-28 (b) For purposes of this section, "conviction" means, in addition to judgments of  
8-29 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
8-30 where the defendant has entered a plea of nolo contendere and has received a sentence of  
8-31 probation and those instances where a defendant has entered into a deferred sentence agreement  
8-32 with the attorney general.

8-33 **23-17-39. Immunity from liability.** -- No employer who disqualifies an individual from  
8-34 employment or continued employment within thirty (30) days of receipt of a letter containing  
9-1 disqualifying information as defined in section 23-17-37 or of a criminal background report  
9-2 relating to the individual shall be liable for civil damages or subject to any claim, demand, cause  
9-3 of action or proceeding of any nature as a result of the disqualification.

9-4 SECTION 4. Section 23-17.7.1-17 of the General Laws in Chapter 23-17.7.1 entitled  
9-5 "Licensing of Nursing Service Agencies" is hereby amended to read as follows:

9-6 **23-17.7.1-17. Criminal records review.** -- (a) Any adult person seeking employment as  
9-7 a direct patient access employee, whether compensated or not, in a facility which is or is required  
9-8 to be licensed or registered with the department of health if that employment involves routine  
9-9 contact with a patient or resident without the presence of other employees, shall undergo a  
9-10 criminal background check as provided in chapter 42-9.4, which shall be initiated prior to, or  
9-11 within one week of, employment. All employees hired prior to the enactment of this section shall  
9-12 be exempted from the requirements of this section.

9-13 (b) The director of the department of health may, by rule, identify those positions  
9-14 requiring criminal background checks. The employee, through the employer, shall apply to the  
9-15 bureau of criminal identification of the state police or local police department for a statewide  
9-16 criminal records check. Fingerprinting shall not be required. Upon the discovery of any  
9-17 disqualifying information as defined in § 23-17.7.1-20 and in accordance with the rule  
9-18 promulgated by the director of the department of health, the bureau of criminal identification of  
9-19 the state police or the local police department will inform the applicant, in writing, of the nature  
9-20 of the disqualifying information; and, without disclosing the nature of the disqualifying  
9-21 information, will notify the employer, in writing, that disqualifying information has been  
9-22 discovered.

9-23 (c) An employee against whom disqualifying information under § 23-17.7.1-20(b) has  
9-24 been found may request that a copy of the criminal background report be sent to the employer  
9-25 who shall make a judgment regarding the continued employment of the employee.

9-26 (d) In those situations in which no disqualifying information has been found, the bureau  
9-27 of criminal identification of the state police or the local police shall inform the applicant and the  
9-28 employer, in writing, of this fact.

9-29 (e) The employer shall maintain on file, subject to inspection by the department of health,  
9-30 evidence that criminal records checks have been initiated on all employees. Failure to maintain  
9-31 that evidence would be grounds to revoke the license or registration of the employer.

9-32 (f) It shall be the responsibility of the bureau of criminal identification of the state police  
9-33 or the local police department to conduct the criminal records check to the applicant for  
9-34 employment without charge to either the employee or the employer.

10-1 SECTION 5. Sections 23-17.7.1-18, 23-17.7.1-20 and 23-17.7.1-21 of the General Laws  
10-2 in Chapter 23-17.7.1 entitled "Licensing of Nursing Service Agencies" are hereby repealed.

10-3 **23-17.7.1-18. Prior criminal records checks.** -- If an applicant for employment has  
10-4 undergone a statewide criminal records check within eighteen (18) months of an application for  
10-5 employment, then an employer may request from the bureau of criminal identification or local  
10-6 police a letter indicating if any disqualifying information was discovered. The bureau of criminal  
10-7 identification will respond without disclosing the nature of the disqualifying information. The  
10-8 letter may be maintained on file to satisfy the requirements of this chapter.

10-9 **23-17.7.1-20. Disqualifying information.** — (a) Information produced by a criminal  
10-10 records review pertaining to conviction, for the following crimes will result in a letter to the  
10-11 employee and employer disqualifying the applicant from the employment: murder, voluntary  
10-12 manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,  
10-13 third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent  
10-14 to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable  
10-15 crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, first  
10-16 degree arson, robbery, felony drug offenses, larceny, or felony banking law violations.

10-17 (b) Information produced by a criminal records review pertaining to convictions for  
10-18 crimes other than those listed in subsection (a) of this section shall entitle, but not obligate the  
10-19 employer to decline to hire the applicant. An employee against whom conviction information  
10-20 related to this subsection has been found may request that a copy of the criminal background  
10-21 report be sent to the employer who shall make a determination regarding the continued  
10-22 employment of the employee.

10-23 (c) For purposes of this section "conviction" means, in addition to judgments of  
10-24 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
10-25 where the defendant has entered a plea of nolo contendere and has received a sentence of  
10-26 probation and those instances where a defendant has entered into a deferred sentence agreement  
10-27 with the attorney general.

10-28 **23-17.7.1-21. Immunity from liability.** — No employer who disqualifies an individual  
10-29 from employment or continued employment within thirty (30) days of receipt of a letter  
10-30 containing disqualifying information as defined in section 23-17.7.1-20 or of a criminal  
10-31 background report relating to that information shall be liable for civil damages or subject to any  
10-32 claim, cause of action, or proceeding of any nature as a result of the disqualification.

10-33 SECTION 6. Section 23-17.4-27 of the General Laws in Chapter 23-17.4 entitled  
10-34 "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

11-1 **23-17.4-27. Criminal records review.** — (a) Any adult person seeking employment as a  
11-2 direct patient access employee, whether compensated or not, in any assisted living residence  
11-3 licensed under this act and having routine contact with a resident or having access to a resident's  
11-4 belongings or funds shall undergo a criminal background check as provided in chapter 42-9.4 to  
11-5 be processed prior to or within one week of employment. All employees hired prior to the  
11-6 enactment of this section shall be exempted from the requirements of this section.

11-7 (b) The director of the department of health may by rule identify those positions requiring  
11-8 criminal background checks. The employee, through the employer, shall apply to the bureau of  
11-9 criminal identification of the state police or local police department for a statewide criminal  
11-10 records check. Fingerprinting shall not be required. Upon the discovery of any disqualifying  
11-11 information as defined in § 23-17.4-30 and in accordance with the rule promulgated by the  
11-12 director of health, the bureau of criminal identification of the state police or the local police  
11-13 department will inform the applicant in writing of the nature of the disqualifying information;  
11-14 and, without disclosing the nature of the disqualifying information, will notify the employer in  
11-15 writing that disqualifying information has been discovered.

11-16 (c) An employee against whom disqualifying information has been found may request  
11-17 that a copy of the criminal background report be sent to the employer. The administrator shall  
11-18 make a judgment regarding the continued employment of the employee.

11-19 (d) In those situations in which no disqualifying information has been found, the bureau  
11-20 of criminal identification (BCI) of the state police or the local police shall inform the applicant  
11-21 and the employer in writing of this fact.

11-22 (e) The employer shall maintain on file, subject to inspection by the department of health,  
11-23 evidence that criminal records checks have been initiated on all employees seeking employment  
11-24 after October 1, 1991, and the results of the checks. Failure to maintain that evidence would be  
11-25 grounds to revoke the license or registration of the employer.

11-26 (f) It shall be the responsibility of the bureau of criminal identification (BCI) of the state  
11-27 police or the local police department to conduct the criminal records check to the applicant for  
11-28 employment without charge to either the employee or employer.

11-29 SECTION 7. Sections 23-17.4-28, 23-17.4-30 and 23-17.4-32 of the General Laws in

11-30 Chapter 23-17.4 entitled "Assisted Living Residence Licensing Act" are hereby repealed.

11-31 ~~**23-17.4-28. Prior criminal records checks.**— If an applicant for employment has~~  
11-32 ~~undergone a statewide criminal records check within eighteen (18) months of an application for~~  
11-33 ~~employment, then an employer may request from the bureau of criminal identification or local~~  
11-34 ~~police a letter indicating if any disqualifying information was discovered. The bureau of criminal~~  
12-1 ~~identification will respond without disclosing the nature of the disqualifying information. The~~  
12-2 ~~letter may be maintained on file to satisfy the requirements of this chapter.~~

12-3 ~~**23-17.4-30. Disqualifying information.**— (a) Information produced by a criminal~~  
12-4 ~~records review pertaining to conviction, for the following crimes will result in a letter to the~~  
12-5 ~~employee and employer disqualifying the applicant from employment: murder, voluntary~~  
12-6 ~~manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,~~  
12-7 ~~third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent~~  
12-8 ~~to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable~~  
12-9 ~~crime against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary,~~  
12-10 ~~first degree arson, robbery, felony drug offenses, larceny or felony banking law violations. An~~  
12-11 ~~employee against whom disqualifying information has been found may request that a copy of the~~  
12-12 ~~criminal background report be sent to the employer who shall make a judgment regarding the~~  
12-13 ~~continued employment of the employee.~~

12-14 ~~(b) For purposes of this section, "conviction" means, in addition to judgments of~~  
12-15 ~~conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances~~  
12-16 ~~where the defendant has entered a plea of nolo contendere and has received a sentence of~~  
12-17 ~~probation and those instances where a defendant has entered into a deferred sentence agreement~~  
12-18 ~~with the attorney general.~~

12-19 ~~**23-17.4-32. Immunity from liability.**— No employer who disqualifies an individual~~  
12-20 ~~from employment or continued employment within thirty (30) days of receipt of a letter~~  
12-21 ~~containing disqualifying information as defined in section 23-17.4-30 or of a criminal background~~  
12-22 ~~report relating to disqualifying information shall be liable for civil damages or subject to any~~  
12-23 ~~claim, demand, cause of action or proceeding of any nature as a result of the disqualification.~~

12-24 SECTION 8. Section 40.1-25.1-3 of the General Laws in Chapter 40.1-25.1 entitled  
12-25 "Employee Criminal Records Check" is hereby amended to read as follows:

12-26 ~~**40.1-25.1-3. Criminal records check requirement.**— (a) Any facility or program~~  
12-27 ~~licensed by the department pursuant to § 40.1-24-1 et seq. and any facility or program operated~~  
12-28 ~~by the department shall require all adult applicants for employment, as a direct patient access~~  
12-29 ~~employee, whether compensated or not, if that employment involves routine contact with~~  
12-30 ~~patients, residents or clients without the presence of other employees, to apply to the bureau of~~  
12-31 ~~criminal identification of the state police or the local police department for a nationwide criminal~~  
12-32 ~~records check for a criminal background check as provided in chapter 42-9.4. The check will~~  
12-33 ~~conform to the applicable federal standards, including the taking of fingerprints of the applicant.~~

13-34 ~~(b) If any disqualifying information is discovered with respect to the applicant, the bureau~~  
13-35 ~~of criminal identification of the state police or the local police department will inform the~~  
13-36 ~~employer, in writing, without disclosing the nature of the disqualifying information, that an item~~  
13-37 ~~of disqualifying nature has been discovered. In addition, the bureau of criminal identification of~~  
13-38 ~~the state police or the local police department will inform the applicant, in writing, of the nature~~  
13-39 ~~of the disqualifying information. An applicant against whom disqualifying information has been~~  
13-40 ~~found may request that a copy of the criminal background report be sent to the employer who~~  
13-41 ~~shall make a judgment regarding the employment of the applicant.~~

13-42 ~~(c) In those situations in which no disqualifying information has been found, the bureau~~  
13-43 ~~of criminal identification of the state police or the local police department shall inform both the~~  
13-44 ~~applicant and the employer of this fact.~~

13-45 ~~(d) The employer will maintain on file, subject to investigation by the department,~~  
13-46 ~~evidence that criminal records checks in accordance with this statute have been initiated on all~~  
13-47 ~~employees seeking employment after August 1, 2001 and the results of the checks. Failure to~~  
13-48 ~~maintain the evidence on file will be prima facie grounds to revoke the license or certification of~~  
13-49 ~~the operator of any facility or program licensed or certified by the department.~~

13-50 ~~(e) It shall be the responsibility of the bureau of criminal identification of the state police~~

13-51 ~~or the local police department to conduct the national criminal records check for the applicant.~~

13-52 SECTION 9. Sections 40.1-25.1-4 and 40.1-25.1-5 of the General Laws in Chapter 40.1-  
13-53 25.1 entitled "Employee Criminal Records Check" are hereby repealed.

13-54 **40.1-25.1-4. Prior criminal records check.** ~~--- If an applicant has undergone a national  
13-55 criminal records check within eighteen (18) months of an application for employment, then an  
13-56 employer may request from the bureau of criminal identification of the state police or the local  
13-57 police, a letter indicating if any disqualifying information was discovered. The bureau of criminal  
13-58 identification of the state police or the local police department shall respond without disclosing  
13-59 the nature of any disqualifying information. The letter shall be maintained on file to satisfy the  
13-60 requirements of this chapter.~~

13-61 **40.1-25.1-5. Destruction of fingerprint records.** ~~--- At the conclusion of any background  
13-62 check required by this chapter, the state police or the local police department will promptly  
13-63 destroy the fingerprint card of the applicant.~~

13-64 SECTION 10. The act shall take effect on January 1, 2013.



voting check  
off graphic

**MOTION: To find 12 H 7806 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT harmful unless amended to allow discretion by the employer GR/JD passed, Nay, KH Abstaining LD & PP**

Discussion: 12 H 7828 AN ACT RELATING TO EDUCATION - CERTIFICATION OF PERSONNEL PROVIDING EDUCATIONAL SERVICES TO VERY YOUNG CHILDREN by Rep. Hern

This act would require any person or entity providing any services to a minor up to the age of 17 to submit to a criminal records check. This includes those who are self-employed or volunteer. This check must be re-done every five years from the initial date of approval.

This act would take effect upon passage.

1-1 SECTION 1. Section 16-48.1-5 of the General Laws in Chapter 16-48.1 entitled  
1-2 "Certification of Personnel Providing Educational Services to Very Young Children" is hereby  
1-3 amended to read as follows:

1-4 **16-48.1-5. Criminal records check -- Employee.** - (a) Any person seeking employment,  
1-5 if the employment involves supervisory or disciplinary power over a child or children or involves  
1-6 routine contact with a child or children without the presence of other employees, in any facility  
1-7 covered under section 16-48-1 shall, after acceptance by the employer of the affidavit required by  
1-8 section 16-48.1-3, apply to the Rhode Island bureau of criminal identification for a nationwide  
1-9 criminal records check. The check will conform to applicable federal standards including the  
1-10 taking of fingerprints to identify the applicant and any expenses associated with providing the  
1-11 criminal records check shall be paid by the applicant and/or requesting agency. Upon the  
1-12 discovery of any disqualifying information as defined in accordance with the rule promulgated by  
1-13 the commissioner, the Rhode Island bureau of criminal identification will inform the applicant, in  
1-14 writing, of the nature of the disqualifying information. In addition, the Rhode Island bureau of  
1-15 criminal identification will inform the employer, in writing, without disclosing the nature of the  
1-16 disqualifying information, that an item of disqualifying information has been discovered. In those  
1-17 situations in which no disqualifying information has been found, the Rhode Island bureau of  
1-18 criminal identification will inform both the applicant and the employer, in writing, of this fact.  
1-19 The employer will maintain on file, subject to inspection by the commissioner, evidence that the  
2-1 criminal records checks have been initiated on all employees seeking employment after August 1,  
2-2 1985, and the results of the checks. Failure to maintain that evidence on file will be prima facie  
2-3 grounds to revoke the license or registration of the operator of the facility. It will be the  
2-4 responsibility of the Rhode Island bureau of criminal identification to conduct the nationwide  
2-5 criminal records check pursuant to this section. The nationwide criminal records check will be  
2-6 provided to the applicant for employment without charge to the applicant and without charge to  
2-7 the prospective employer if the employer is a tax exempt corporation or an unincorporated  
2-8 nonprofit organization qualified under section 501(c) of the United States Internal Revenue Code,  
2-9 26 U.S.C. section 501(c).

2-10 (b) The provisions and requirements of having to provide a criminal records check from  
2-11 the bureau of criminal identification for a nationwide criminal records search shall also apply to  
2-12 any person or entity which provides any kind of service to children and minors up to the age of  
2-13 seventeen (17) whether as an employee, self-employed or volunteer. The director of the  
2-14 department of children, youth and families shall determine by rule those items of information  
2-15 appearing on a criminal records check which constitutes disqualifying information. Criminal  
2-16 background checks must be undergone every five (5) years from the date of the initial approval.  
2-17 SECTION 2. This act shall take effect upon passage.



voting check  
off graphic

## Took no position on 12 H 7828 AN ACT RELATING TO EDUCATION - CERTIFICATION OF PERSONNEL PROVIDING EDUCATIONAL SERVICES TO VERY YOUNG CHILDREN

Discussion: 12 H 7878 AN ACT RELATING TO BUSINESSES AND PROFESSIONS --  
CRIMINAL RECORD BACKGROUND CHECKS by Rep. Ajello

This act would amend various provisions of the general laws in order to provide more uniformity with regard to criminal background checks, including: nurses; school employees; personnel providing educational services to very young children; massage therapists; Ride paratransit drivers; employees of child care facilities; employees of youth serving agency; employees of the department of children, youth and families; employees of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; and employees and volunteers of municipal recreation departments. It would also eliminate the requirement that the applicant pay for the check. Disqualifying information with regards to nurses and school employees would mean those offenses listed in sections 11-37-8.1 first degree sexual assault, 11-37-8.3 first degree child molestation sexual assault; and 23-17-37 murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny, or felony banking law violations.

This act would take effect upon passage.

1-1 SECTION 1. Section 5-34-43 of the General Laws in Chapter 5-34 entitled "Nurses" is  
1-2 hereby amended to read as follows:

1-3 **5-34-43. Criminal records review.** -- (a) Notwithstanding any provision of law to the  
1-4 contrary contained in any general or public law, rule or regulation, any person seeking a license to  
1-5 practice under this chapter, or who is previously licensed and authorized to practice under this  
1-6 chapter and is seeking employment, shall undergo a federal and statewide criminal background  
1-7 check (BCI), which shall be processed prior to receiving a license to practice or to enter into  
1-8 employment.

1-9 (b) The applicant shall apply to the bureau of criminal identification for a national  
1-10 criminal records check that shall include fingerprints submitted to the federal bureau of  
1-11 investigation. Upon the discovery of any disqualifying information, the bureau of criminal  
1-12 identification will inform the applicant in writing of the nature of the disqualifying information;  
1-13 and, without disclosing the nature of the disqualifying information, will notify the licensing  
1-14 agency or the potential employer in writing that disqualifying information has been discovered.

1-15 (c) The applicant against whom disqualifying information has been found, may request  
1-16 that a copy of the criminal background report be sent to the licensing agency or the potential  
1-17 employer. The licensing agency or the potential employer shall make a judgment regarding the  
1-18 issuing of a license.

2-19 (d) In those situations in which no disqualifying information has been found, the bureau  
2-20 of criminal identification shall inform the applicant and the licensing agency or the potential  
2-21 employer in writing of this fact.

2-22 (e) ~~It shall be the responsibility of the applicant to pay for the criminal records check~~ The  
2-23 criminal records check shall be provided to the applicant without charge.  
2-24 (f) For the purposes of this section, "disqualifying information" means those offenses  
2-25 listed in sections 11-37-8.1, 11-37-8.3 and 23-17-37.  
2-26 (g) At the conclusion of the criminal background check required by this section, the  
2-27 attorney general, the state police, or local police department shall promptly destroy the fingerprint  
2-28 record of the applicant obtained pursuant to this section.

2-29 SECTION 2. Section 16-2-18.1 of the General Laws in Chapter 16-2 entitled "School  
2-30 Committees and Superintendents" is hereby amended to read as follows:

2-31 **16-2-18.1 Criminal records review.** -- (a) Any person seeking employment with a  
2-32 private school or public school department who has not previously been employed by a private  
2-33 school or public school department in Rhode Island during the past twelve (12) months shall  
2-34 undergo a national and state criminal background check to be initiated prior to or within one week  
2-35 of employment after receiving a conditional offer of employment; provided, however, that  
2-36 employees hired prior to August 1, 2001 and or who have been continuously employed by a  
2-37 public school department in Rhode Island during the past twelve (12) months shall be exempted  
2-38 from the requirements of this section and § 16-2-18.2.

2-39 (b) The applicant shall apply to the bureau of criminal identification (BCI), department of  
2-40 attorney general, state police or local police department where they reside, for a national and state  
2-41 criminal records check. Fingerprinting shall be required. Upon the discovery of any disqualifying  
2-42 information, the bureau of criminal identification, state police or local police department will  
2-43 inform the applicant in writing of the nature of the disqualifying information; and, without  
2-44 disclosing the nature of the disqualifying information will notify the employer in writing that  
2-45 disqualifying information has been discovered.

2-46 (c) An employee against whom disqualifying information has been found may request  
2-47 that a copy of the criminal background report be sent to the employer who shall make a judgment  
2-48 regarding the employment of the employee.

2-49 (d) In those situations in which no disqualifying information has been found, the bureau  
2-50 of criminal identification, state police or local police department shall inform the applicant and  
2-51 the employer in writing of this fact.

2-52 (e) For purposes of this section, "disqualifying information" means those offenses listed  
2-53 in § 23-17-37, and those offenses listed in §§ 11-37-8.1 and 11-37-8.3.

3-1 (f) The employer shall maintain on file, subject to inspection by the department of  
3-2 elementary and secondary education, evidence that criminal records checks have been initiated on  
3-3 all employees seeking employment subsequent to July 13, 1998, and the results of the checks.  
3-4 ~~The applicant shall be responsible for the costs of the national and state criminal records check~~  
3-5 The criminal records check shall be provided to the applicant without charge.

3-6 (g) At the conclusion of the criminal background check required in this section, the  
3-7 attorney general, state police or local police department shall promptly destroy the fingerprint  
3-8 record of the applicant obtained pursuant to this chapter.

3-9 SECTION 3. Sections 16-48.1-5 and 16-48.1-8 of the General Laws in Chapter 16-48.1  
3-10 entitled "Certification of Personnel Providing Educational Services to Very Young Children" are  
3-11 hereby amended to read as follows:

3-12 **16-48.1-5. Criminal records check – Employee.** -- Any person seeking employment, if  
3-13 the employment involves supervisory or disciplinary power over a child or children or involves  
3-14 routine contact with a child or children without the presence of other employees, in any facility  
3-15 covered under § 16-48-1 shall, after acceptance by the employer of the affidavit required by § 16-  
3-16 48.1-3, apply to the Rhode Island bureau of criminal identification for a nationwide criminal  
3-17 records check. The check will conform to applicable federal standards including the taking of  
3-18 fingerprints to identify the applicant and any expenses associated with providing the criminal  
3-19 records check shall be paid by the applicant and/or requesting agency. Upon the discovery of any  
3-20 disqualifying information as defined in accordance with the rule promulgated by the  
3-21 commissioner, the Rhode Island bureau of criminal identification will inform the applicant, in  
3-22 writing, of the nature of the disqualifying information. In addition, the Rhode Island bureau of  
3-23 criminal identification will inform the employer, in writing, without disclosing the nature of the

3-24 disqualifying information, that an item of disqualifying information has been discovered. An  
3-25 applicant against whom disqualifying information has been found may request that a copy of the  
3-26 criminal background report be sent to the employer who shall make a judgment regarding the  
3-27 continued employment of the applicant. In those situations in which no disqualifying information  
3-28 has been found, the Rhode Island bureau of criminal identification will inform both the applicant  
3-29 and the employer, in writing, of this fact. The employer will maintain on file, subject to  
3-30 inspection by the commissioner, evidence that the criminal records checks have been initiated on  
3-31 all employees seeking employment after August 1, 1985, and the results of the checks. Failure to  
3-32 maintain that evidence on file will be prima facie grounds to revoke the license or registration of  
3-33 the operator of the facility. It will be the responsibility of the Rhode Island bureau of criminal  
3-34 identification to conduct the nationwide criminal records check pursuant to this section. The  
4-1 nationwide criminal records check will be provided to the applicant for employment without  
4-2 charge to the applicant and without charge to the prospective employer if the employer is a tax  
4-3 exempt corporation or an unincorporated nonprofit organization qualified under § 501(c) of the  
4-4 United States Internal Revenue Code, 26 U.S.C. § 501(c). At the conclusion of the criminal  
4-5 background check required by this section, the attorney general, the state police, or local police  
4-6 department shall promptly destroy the fingerprint record of the applicant obtained pursuant to this  
4-7 section.

4-8 **16-48.1-8. Destruction of fingerprint records.** -- At the conclusion of any background  
4-9 check required by this chapter, the state police or the local police department will promptly  
4-10 destroy the fingerprint ~~and~~ record of the applicant.

4-11 SECTION 4. Section 23-17.7.1-20 of the General Law in Chapter 23-17.7.1 entitled  
4-12 "Licensing of Nursing Service Agencies" is hereby amended to read as follows:

4-13 **23-17.7.1-20. Disqualifying information.** -- (a) Information produced by a criminal  
4-14 records review pertaining to conviction, for the following crimes will result in a letter to the  
4-15 employee and employer disqualifying the applicant from the employment: murder, voluntary  
4-16 manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,  
4-17 third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent  
4-18 to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable  
4-19 crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, first  
4-20 degree arson, robbery, felony drug offenses, larceny, or felony banking law violations.

4-21 ~~(b) Information produced by a criminal records review pertaining to convictions for~~  
4-22 ~~crimes other than those listed in subsection (a) of this section shall entitle, but not obligate the~~  
4-23 ~~employer to decline to hire the applicant. An employee against whom conviction information~~  
4-24 ~~related to this subsection has been found may request that a copy of the criminal background~~  
4-25 ~~report be sent to the employer who shall make a determination regarding the continued~~  
4-26 ~~employment of the employee.~~

4-27 ~~(e)(b)~~ For purposes of this section "conviction" means, in addition to judgments of  
4-28 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
4-29 where the defendant has entered a plea of nolo contendere and has received a sentence of  
4-30 probation and those instances where a defendant has entered into a deferred sentence agreement  
4-31 with the attorney general.

4-32 SECTION 5. Section 23-20.8-3 of the General Laws in Chapter 23-20.8 entitled  
4-33 "Licensing of Massage Therapy Establishments" is hereby amended to read as follows:

5-34 **23-20.8-3. Practice of massage – Use of titles limited – Qualifications for licenses –**  
5-35 **Fees.** -- (a) Only a person licensed under this chapter shall practice massage.

5-36 (b) Only a person licensed under this chapter as a massage therapist may use the title  
5-37 "massage therapist." Only a person licensed under this chapter may use the title "masseur" or  
5-38 "masseuse."

5-39 (c) No person, firm, partnership, or corporation shall describe its services under the title  
5-40 "massage" or "massage therapy" unless these services, as defined in § 23-20.8-1, are performed  
5-41 by a person licensed to practice massage under this chapter, and, if described as "massage  
5-42 therapy," by a massage therapist.

5-43 (d) Application for licenses as a masseur or masseuse, or as a massage therapist, shall be  
5-44 issued by the department of health. Except for persons licensed as massage therapists, the

5-45 department shall establish minimum educational and training requirements for the persons to be  
5-46 licensed under this chapter and shall have the authority to take disciplinary action against a  
5-47 licensee for knowingly placing the health of a client at serious risk without maintaining the proper  
5-48 precautions.

5-49 (e) The fee for original application for licensure as a massage therapist shall be fifty  
5-50 dollars (\$50.00). The fee for annual license renewal shall be fifty dollars (\$50.00). Fees for all  
5-51 other licenses under this chapter shall be fixed in an amount necessary to cover the cost of  
5-52 administering this chapter.

5-53 (f) Any person applying for a license under this chapter shall undergo a criminal  
5-54 background check. Such persons shall apply to the bureau of criminal identification of the state  
5-55 police or local police department for a nationwide criminal records check. Fingerprinting shall be  
5-56 required. Upon the discovery of any disqualifying information as defined in § 23-20.8-5, the  
5-57 bureau of criminal identification of the state police or the local police department shall inform the  
5-58 applicant, in writing, of the nature of the disqualifying information, and, without disclosing the  
5-59 nature of the disqualifying information, shall notify the department, in writing, that disqualifying  
5-60 information has been found. The applicant shall be responsible for payment of the costs of the  
5-61 criminal records check.

5-62 (g) In those situations in which no disqualifying information has been found, the bureau  
5-63 of criminal identification shall inform the applicant and the licensing agency or the potential  
5-64 employer in writing of this fact.

5-65 (h) An applicant against whom disqualifying information has been found may request  
5-66 that a copy of the criminal background report be sent to the department, which shall make a  
5-67 judgment regarding the licensure of the applicant.

6-68 (i) The criminal records check shall be provided to the applicant without charge.

6-69 (j) At the conclusion of the criminal background check required by this section, the  
6-70 attorney general, the state police, or local police department shall promptly destroy the fingerprint  
6-71 record of the applicant obtained pursuant to this section.

6-72 SECTION 6. Section 39-18-4.1 of the General Laws in Chapter 39-18 entitled "Rhode  
6-73 Island Public Transit Authority" is hereby amended to read as follows:

6-74 **39-18-4.1. Health and safety of passengers.** -- (a) The authority shall have the power to  
6-75 establish reasonable rules of conduct for passengers for the protection of the health and safety of  
6-76 passengers and employees of the authority. The rules shall incorporate the provisions of the  
6-77 Americans with Disabilities Act of 1990, 42 USC § 12101 et seq., and § 28-5.1-7, chapter 28 of  
6-78 title 11 and chapter 87 of title 42 and be promulgated in accordance with the provisions of chapter  
6-79 35 of title 42.

6-80 (b) All controversies arising out of application of any provision of this section shall be  
6-81 determined by the general manager or his or her designated hearing officer, who shall afford a  
6-82 hearing to the passenger and/or his or her parent or guardian, and, after hearing, shall render a  
6-83 written decision. The decision of the general manager or hearing officer shall be final except that  
6-84 the passenger aggrieved by the decision shall have a right of appeal to the superior court, which  
6-85 shall affirm the decision unless it is clearly erroneous or contrary to law. The hearing shall be  
6-86 conducted in accordance with the provisions of chapter 35 of title 42.

6-87 (c) Notice shall be provided to the RIdE funding agency or agencies for any hearing  
6-88 regarding their client/passengers on RIdE vehicles. A representative of the RIdE funding agency  
6-89 or agencies may attend the hearing. The general manager or hearing officer will consider the  
6-90 recommendation of the RIdE funding agency's representative in rendering his/her decision.

6-91 (d) The decision of the general manager or hearing officer may include:

6-92 (1) Refusing to transport a person whose violation of the rules of the authority threatens  
6-93 the health and safety of passengers or employees of the authority, for a period not to exceed six  
6-94 (6) months; and/or

6-95 (2) Revoking a passenger's ticket, pass, or other fare medium, regardless of the number of  
6-96 trips or time period for which the ticket, pass, or other fare medium is valid, if the passenger's  
6-97 continued presence on an authority vehicle or at an authority facility threatens the health or safety  
6-98 of the authority's other passengers or employees. The authority shall within a reasonable time  
6-99 after such a revocation, refund to the passenger the unused value of the ticket, pass, or other fare

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medium.

(e) Nothing under this section precludes any other action permitted by law.

(f) All RIdE buses shall be installed with passenger security cameras when federal funds become available for this purpose.

(g) Any person seeking employment as a RIdE bus driver shall undergo a criminal background check to be initiated prior to or within one week of employment. All employees hired prior to the enactment of this subsection shall be exempted from its requirements.

(1) The applicant shall apply to the bureau of criminal identification (BCI), department of attorney general, state police or local police department where he or she resides, for a statewide criminal records check. Fingerprinting shall not be required. Upon the discovery of any disqualifying information as defined in § 23-17-37, the bureau of criminal identification of the state police or the local police department will inform the applicant, in writing, of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information, will notify the employer, in writing, that disqualifying information has been discovered.

(2) An individual against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the ability of the individual to drive a RIdE bus. In those situations in which no disqualifying information has been found, the bureau of criminal identification, state police or local police department shall inform the applicant and the employer in writing of this fact.

(3) The criminal record check requirements of this section shall apply only to persons seeking to drive RIdE buses.

(4) The criminal records check shall be provided to the applicant without charge.

SECTION 7. Sections 40-13.2-5, 40-13.2-5.1, and 40-13.2-5.2 of the General Laws in Chapter 40-13 entitled "Certification of Child Care and Youth Serving Agency Workers" are hereby amended to read as follows:

**40-13.2-5. Criminal records check – Employee of child care facilities which must be licensed by the department.** (a) Any person seeking employment, if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, in any facility which is, or is required to be, licensed or registered with the department or seeking that employment at the training school for youth shall, after acceptance by the employer of the affidavit required by § 40-13.2-3, apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check. The check will conform to applicable federal standards including the taking of fingerprints to identify the applicant.

(b) Upon the discovery of any disqualifying information as defined in accordance with the rule promulgated by the director, the bureau of criminal identification of the state police or the local police department will inform the applicant, in writing, of the nature of the disqualifying information. In addition, the bureau of criminal identification of the state police or the local police department will inform the relevant employer, in writing, without disclosing the nature of the disqualifying information, that an item of disqualifying information has been discovered.

(c) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the state police or the local police department will inform both the applicant and the employer, in writing, of this fact.

(d) An applicant against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the applicant.

~~(d)~~(e) The employer will maintain on file, subject to inspection by the department, evidence that criminal records checks have been initiated on all employees seeking employment after August 1, 1985, and the results of the checks.

~~(e)~~(f) Failure to maintain that evidence on file will be prima facie grounds to revoke the license or registration of the operator of the facility.

~~(f)~~(g) It will be the responsibility of the bureau of criminal identification of the state police or the local police department to conduct the nationwide criminal records check pursuant to this section. The nationwide criminal records check will be provided to the applicant for employment without charge.

8-19 (h) At the conclusion of the criminal background check required by this section, the  
8-20 attorney general, the state police, or local police department shall promptly destroy the fingerprint  
8-21 record of the applicant obtained pursuant to this section.

8-22 **40-13.2-5.1. Criminal records check – Employee of youth serving agency.** -- (a) Any  
8-23 person seeking employment, if that employment involves supervisory or disciplinary power over  
8-24 a child or children or involves routine contact with a child or children without the presence of  
8-25 other employees, in any facility or program which is a youth serving agency shall file with the  
8-26 employer the affidavit required by § 40-13.2-3. Said affidavit shall be maintained on file by the  
8-27 employer and shall be made available for inspection by the parent(s)/guardian(s) of any child who  
8-28 is enrolled in the programs of the youth serving agency.

8-29 (b) Any person seeking employment, if that employment involves supervisory or  
8-30 disciplinary authority over a child or children or involves routine contact with a child or children  
8-31 without the presence of other employees, in any youth serving agency, shall apply to the bureau  
8-32 of criminal identification of the attorney general's office for a criminal records check. The  
8-33 criminal records check shall be provided to the applicant without charge.

9-34 (c) Those items of information appearing on a criminal records check which have been  
9-35 determined to constitute disqualifying information by the director pursuant to § 40-13.2-4 of this  
9-36 chapter shall also be items of disqualifying information pursuant to this section.

9-37 (d) Upon the discovery of any disqualifying information as defined in accordance with  
9-38 the rule promulgated by the director, the bureau of criminal identification of the attorney general's  
9-39 office will inform the ~~applicant~~ employer, in writing, of the nature of the disqualifying  
9-40 information. In addition, the bureau of criminal identification of the attorney general's office will  
9-41 inform the applicant, in writing, without disclosing the nature of the disqualifying information,  
9-42 that an item of disqualifying information has been discovered.

9-43 (e) An applicant against whom disqualifying information has been found may request that  
9-44 a copy of the criminal background report be sent to the employer who shall make a judgment  
9-45 regarding the continued employment of the applicant.

9-46 ~~(e)~~(f) In those situations in which no disqualifying information has been found, the  
9-47 bureau of criminal identification of the attorney general's office will inform both the applicant  
9-48 and the employer, in writing, of this fact. The employer will maintain on file, and make available  
9-49 for inspection by the parent(s)/guardian(s) of any child enrolled in the programs of the youth  
9-50 serving agency, evidence that criminal records checks have been obtained on all employees of the  
9-51 youth serving agency pursuant to § 40-13.2-5.1, and the results of the checks. The criminal  
9-52 records checks will be provided to the applicant for employment without charge.

9-53 (g) At the conclusion of the criminal background check required by this section, the  
9-54 attorney general, the state police, or local police department shall promptly destroy the fingerprint  
9-55 record of the applicant obtained pursuant to this section.

9-56 **40-13.2-5.2. Criminal records check – Employees of the department of children,**  
9-57 **youth and families.** -- (a) Any person seeking employment with the department of children,  
9-58 youth and families, if that employment involves supervisory or disciplinary power over a child or  
9-59 children or involves routine contact with a child or children without the presence of other  
9-60 employees, shall apply to the bureau of criminal identification (BCI), department of attorney  
9-61 general, state police, or local police department where the applicant resides, for a national and  
9-62 state criminal records check. The check shall conform to the applicable federal standards  
9-63 including the taking of fingerprints to identify the applicant. The director shall determine by rule  
9-64 those items of information appearing on a criminal records check which constitute disqualifying  
9-65 information because the information would indicate that employment could endanger the health  
9-66 or welfare of a child or children and would be inconsistent with the purpose and intent of the  
9-67 department of children, youth and families.

10-68 (b) ~~The department of attorney general, the state police or the local police department~~  
10-69 ~~shall forward the results of the nationwide and state criminal record checks, including the nature~~  
10-70 ~~of any criminal record, on the individual to the individual and to the department of children,~~  
10-71 ~~youth and families. Upon the discovery of any disqualifying information with respect to an~~  
10-72 ~~applicant, the department of children, youth and families shall inform the applicant of the~~  
10-73 ~~disqualifying information.~~ Upon the discovery of any disqualifying information as defined in

10-74 accordance with the rules promulgated by the director, the bureau of criminal identification of the  
10-75 state police of the attorney general's office shall inform the applicant, in writing, of the nature of  
10-76 the disqualifying information. In addition, the bureau of criminal identification of the attorney  
10-77 general's office shall inform the department, in writing, without disclosing the nature of the  
10-78 disqualifying information, that an item of disqualifying information has been discovered.

10-79 (c) An applicant against whom disqualifying information has been found may request that  
10-80 a copy of the criminal background report be sent to the department which shall make a judgment  
10-81 regarding the continued employment of the applicant.

10-82 (d) In those situations in which no disqualifying information has been found, the bureau  
10-83 of criminal identification of the attorney general's office will inform both the applicant and the  
10-84 department, in writing, of this fact.

10-85 ~~(e)~~(e) The cost of criminal record checks required by this section for individuals who are  
10-86 not currently employed by the State of Rhode Island shall be the responsibility of the applicant.  
10-87 The cost of criminal records checks required by this section for individuals who are currently  
10-88 employed by the State of Rhode Island applicants and employees shall be the responsibility of  
10-89 the department of children, youth and families.

10-90 ~~(d)~~(f) Any individual required to submit to a criminal background check, state and/or  
10-91 federal, under subsection (a) above who has submitted to a criminal background check conducted  
10-92 within the previous six (6) months in accordance with § 14-1-34 and/or § 15-7-11 and/or §§ 40-  
10-93 13.2-2, 40-13.2-4, 40-13.2-5, and/or § 40-13.2-9, shall be exempt from an additional check but  
10-94 shall request the department of attorney general, the state police or the local police department  
10-95 which conducted the check forward the results, including the nature of the criminal record, to the  
10-96 department of children, youth and families.

10-97 (g) At the conclusion of the criminal background check required by this section, the  
10-98 attorney general, the state police, or local police department shall promptly destroy the fingerprint  
10-99 record of the applicant obtained pursuant to this section.

10-100 SECTION 8. Sections 40.1-25.1-1 and 40.1-25.1-5 of the General Laws in Chapter 40.1-  
10-101 25.1 entitled "Behavioral Healthcare, Developmental Disabilities and Hospitals" are hereby  
10-102 amended to read as follows:

11-1 **40.1-25.1-1. Purpose.** -- In order to provide protection for persons residing in or  
11-2 receiving services from facilities, programs or agencies licensed, funded and/or operated by the  
11-3 department of mental health, retardation, and hospitals, all persons eighteen (18) years or older, as  
11-4 further defined in subsection (3), seeking employment in any facility or program licensed, funded  
11-5 and/or operated by the department shall be required to undergo a national criminal background  
11-6 check for the purpose of determining whether the prospective employee has been convicted of a  
11-7 crime that bears upon his or her fitness to have the responsibility for the safety and well-being of  
11-8 persons residing in or receiving services from facilities, programs or agencies licensed, funded  
11-9 and/or operated by the department.

11-10 **40.1-25.1-5. Destruction of fingerprint records.** -- At the conclusion of any background  
11-11 check required by this chapter, the state police or the local police department will promptly  
11-12 destroy the fingerprint card record of the applicant.

11-13 SECTION 8. Section 45-2-3.3 of the General Laws In Chapter 45-2 entitled "General  
11-14 Powers" is hereby amended to read as follows:

11-15 **45-2-3.3. Background checks.** -- (a) Notwithstanding any law to the contrary, any  
11-16 municipal recreation department may request a background check from their local police  
11-17 department for any employee or volunteer serving their community.

11-18 (b) The applicant shall apply to the bureau of criminal identification for a criminal  
11-19 records check. Upon the discovery of any disqualifying information, the bureau of criminal  
11-20 identification will inform the applicant in writing of the nature of the disqualifying information;  
11-21 and, without disclosing the nature of the disqualifying information will notify the municipal  
11-22 recreation department in writing that disqualifying information has been discovered.

11-23 (c) An applicant against whom disqualifying information has been found may request that  
11-24 a copy of the criminal background report be sent to the municipal recreation department. The  
11-25 municipal recreation department shall make a judgment regarding the continued employment or  
11-26 volunteerism of the applicant.

- 11-27 (d) In those situations in which no disqualifying information has been found, the bureau
- 11-28 of criminal identification will inform both the applicant and the municipal recreation department,
- 11-29 in writing, of this fact.
- 11-30 (e) For purposes of this section, "disqualifying information" means those offenses listed
- 11-31 in section 23-17-37, and those offenses listed in sections 11-37-8.1 and 11-37-8.3.
- 11-32 (f) The criminal records check shall be provided to the applicant without charge.
- 12-33 SECTION 9. This act shall take effect upon passage.



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## Took no position on 12 H 7878 AN ACT RELATING TO BUSINESSES AND PROFESSIONS -- CRIMINAL RECORD BACKGROUND CHECKS

Discussion: 12 H 7864 AN ACT RELATING TO LABOR AND LABOR RELATIONS -- BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES by Rep. Slater  
 This act would ensure that businesses employ fair policies relating to the screening and identification of persons with criminal backgrounds through the BCI system.

This act would take effect upon passage.

1-1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR  
 1-2 RELATIONS" is hereby amended by adding thereto the following chapter:

### **CHAPTER 6.13**

#### **BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES**

1-5 **28-6.13-1. Purpose.** – This chapter is intended to ensure that businesses employ fair  
 1-6 policies relating to the screening and identification of persons with criminal backgrounds through  
 1-7 the BCI system.

1-8 **28-6.13-2. Definitions.** – As used in this chapter, the following terms, unless the context  
 1-9 requires a different interpretation, have the following meanings:

- 1-10 (1) "Applicant" means any current or prospective employee, licensee, or volunteer.
- 1-11 (2) "BCI" means the department of attorney general, bureau of criminal identification.
- 1-12 (3) "Otherwise Qualified" means any applicant that meets all other criteria for a position
- 1-13 or consideration for a position.
- 1-14 (4) "RILETS" means Rhode Island law enforcement transmission system.
- 1-15 (5) "State" means the State of Rhode Island or department, agency, or office thereof.
- 1-16 (6) "Employer" means any business, department, office, or agency which hires personnel.

1-17 **28-6.13-3. BCI-related standards of the State of Rhode Island.** – (a) Except as  
 1-18 provided in subsection (c) of this section, and notwithstanding any other provisions of law to the  
 1-19 contrary, a person shall not be disqualified from employment, nor shall a person be disqualified to  
 2-1 practice, pursue, or engage in any occupation, trade, vocation, profession or business for which a  
 2-2 license, permit, certificate or registration is required to be issued by the state or any of its  
 2-3 agencies solely because of a BCI report.

2-4 (b) Except for a position for which any provision of the general statutes specifically  
 2-5 disqualifies a person from employment because of a prior conviction of a crime, no employer  
 2-6 shall inquire about a prospective employee's past convictions until such prospective employee  
 2-7 has been otherwise qualified for the position.

2-8 (c) A person may be denied employment, or a person may be denied a license, permit, or  
 2-9 certificate, or registration to pursue, practice, or engage in an occupation, trade, vocation,  
 2-10 profession or business by reason of the prior conviction of a crime after considering:

- 2-11 (1) The nature of the crime and its relationship to the job for which the person has
- 2-12 applied;
- 2-13 (2) Information pertaining to the degree of rehabilitation of the convicted person;
- 2-14 (3) The time elapsed since the conviction or release.

2-15 (d) If a conviction of a crime is used as a basis for a rejection of an applicant, such  
 2-16 rejection shall:

- 2-17 (1) Be in writing and specifically state the evidence presented and reasons for rejection.

2-18 A copy of such rejection shall be sent by registered mail to the applicant;

- 2-19 (2) Offer the applicant the opportunity to present rebuttal evidence regarding the accuracy
- 2-20 and/or relevance of the report.

2-21 (e) In no case may records of arrest, which are not followed by a conviction, or records of  
 2-22 convictions which have been erased, be used, distributed, or disseminated by RILETS, or BCI in  
 2-23 connection with an application for employment or for a permit, license, certificate, or registration.  
 2-24 (f) The state shall not grant public access, directly or through private vendors, to records  
 2-25 of arrest which are not followed by conviction or which have been expunged or sealed.  
 2-26 **28-6.13-4. Applicability.** – If any of these sections imposes greater restrictions or  
 2-27 obligations than those imposed by any other general law, special law, regulation, rule, ordinance,  
 2-28 order, or policy then the provision of these sections shall control.  
 2-29 **28-6.13-5. Regulatory authority.** – The department of attorney general bureau of  
 2-30 criminal identification shall have the authority to promulgate rules and regulations necessary to  
 2-31 implement and enforce these sections.  
 2-32 **28-6.13-6. Severability.** – If any provisions of these sections shall be held to be invalid  
 2-33 by a court of competent jurisdiction, then such provision shall be considered separately and apart  
 2-34 from the remaining provisions, which shall have full force and effect.  
 3-1 SECTION 2. This act shall take effect upon passage.



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**Took no position on 12 H 7864 AN ACT RELATING TO LABOR AND LABOR RELATIONS -- BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES**

Discussion: 12 S 2566 AN ACT RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS by Sen. Nesselbush

This act would amend the provisions of the general or public laws relating to expungement of criminal records, to require applicants to the department of health for professional initial licenses or license renewals to disclose all criminal convictions regardless of expungement and would require any custodian of records to release, and allow access to any expunged criminal records upon request from the department of health regarding licensure and/or disciplinary action of any and all health professionals under its regulatory authority.

This act would take effect upon passage.

1-1 SECTION 1. Section 12-1.3-4 of the General Laws in Chapter 12-1.3 entitled  
 1-2 "Expungement of Criminal Records" is hereby amended to read as follows:  
 1-3 **12-1.3-4. Effect of expungement of records -- Access to expunged records --**  
 1-4 **Wrongful disclosure.** -- (a) Any person having his or her record expunged shall be released from  
 1-5 all penalties and disabilities resulting from the crime of which he or she had been convicted,  
 1-6 except, upon conviction of any subsequent crime, the expunged conviction may be considered as  
 1-7 a prior conviction in determining the sentence to be imposed.  
 1-8 (b) In any application for employment, license, or other civil right or privilege, or any  
 1-9 appearance as a witness, a person whose conviction of a crime has been expunged pursuant to this  
 1-10 chapter may state that he or she has never been convicted of the crime; provided, that if the  
 1-11 person is an applicant for a law enforcement agency position, for admission to the bar of any  
 1-12 court, an applicant for a teaching certificate, under chapter 11 of title 16, for an initial  
 1-13 professional license, or for a professional license renewal with the department of health, a  
 1-14 coaching certificate under section 16-11.1-1, or the operator or employee of an early childhood  
 1-15 education facility pursuant to chapter 48.1 of title 16, the person shall disclose the fact of a  
 1-16 conviction.  
 1-17 (c) Whenever the records of any conviction and/or probation of an individual for the  
 1-18 commission of a crime have been expunged under the provisions of this chapter, any custodian of  
 1-19 the records of conviction relating to that crime shall not disclose the existence of the records upon  
 1-20 inquiry from any source unless the inquiry is that of the individual whose record was expunged,  
 2-1 that of a sentencing court following the conviction of the individual for the commission of a  
 2-2 crime, or that of a bar admission, character and fitness, or disciplinary committee, board, or  
 2-3 agency, or court which is considering a bar admission, character and fitness, or disciplinary  
 2-4 matter, or that of the commissioner of elementary and secondary education, or that of the  
 2-5 department of health regarding licensure and/or disciplinary action of any and all health  
 2-6 professionals under its regulatory authority, or that of any law enforcement agency when the

2-7 nature and character of the offense with which an individual is to be charged would be affected  
2-8 by virtue of the person having been previously convicted of the same offense.

2-9 (d) The custodian of any records which have been expunged pursuant to the provisions  
2-10 of this chapter shall only release or allow access to those records for the purposes specified in  
2-11 subsections (b) or (c) of this section or by order of a court. Any agency and/or person who  
2-12 willfully refuses to carry out the expungement of the records of conviction pursuant to section 12-  
2-13 1.3-2, or this section or willfully releases or willfully allows access to records of conviction,  
2-14 knowing them to have been expunged, shall be civilly liable.

2-15 SECTION 2. This act shall take effect upon passage.



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## Took no position on 12 S 2566 AN ACT RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Discussion: 12 H 7555 AN ACT RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC  
RECORDS by Rep. Marcello

This act would make various amendments to the access to public records act, including:  
making public all records which are identifiable to an individual applicant for benefits, client,  
patient, student, or employee, including, but not limited to, personnel, medical treatment,  
welfare, employment security, pupil records, all records relating to a client/attorney  
relationship and to a doctor/patient relationship, including and all personal or medical  
information relating to an individual in any files, including information relating to medical or  
psychological facts, personal finances, welfare, employment security, student performance, or  
information in personnel files unless individually-identifiable records, the disclosure of which  
would constitute a clearly unwarranted invasion of personal privacy. It also would amend the  
access to public records requirements by ordering compliance with a request to take place  
within seven (7) business days and up to an additional twenty (20) business days once it is  
shown that the request is of a voluminous nature.

This act would take effect on September 1, 2012.

1-1 SECTION 1. Sections 38-2-1, 38-2-2, 38-2-3, 38-2-4, 38-2-6, 38-2-7, 38-2-8 and 38-2-9  
1-2 of the General Laws in Chapter 38-2 entitled "Access to Public Records" are hereby amended to  
1-3 read as follows:

1-4 **38-2-1. Purpose.** -- The public's right to access to public records and the individual's  
1-5 right to dignity and privacy are both recognized to be principles of the utmost importance in a  
1-6 free society. The purpose of this chapter is to facilitate public access to public records. It is also  
1-7 the intent of this chapter to protect from disclosure information about particular individuals  
1-8 maintained in the files of public bodies when disclosure would constitute an unwarranted  
1-9 invasion of personal privacy: as specified by the exemptions contained herein.

1-10 **38-2-2. Definitions.** -- As used in this chapter:

1-11 (1) "Agency" or "public body" ~~shall mean~~ means any executive, legislative, judicial,  
1-12 regulatory, or administrative body of the state, or any political subdivision thereof; including, but  
1-13 not limited to, any department, division, agency, commission, board, office, bureau, authority,  
1-14 any school, fire, or water district, or other agency of Rhode Island state or local government  
1-15 which exercises governmental functions, any authority as defined in section 42-35-1(b), or any  
1-16 other public or private agency, person, partnership, corporation, or business entity acting on  
1-17 behalf of and/or in place of any public agency.

1-18 (2) "Chief administrative officer" means the highest authority of the public body, ~~as~~  
1-19 ~~defined in subsection (a) of this section.~~

2-20 (3) "Public business" means any matter over which the public body has supervision,  
2-21 control, jurisdiction, or advisory power.

2-22 (4) (i) "Public record" or "public records" shall mean all documents, papers, letters,  
2-23 maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
2-24 processing records, computer stored data (including electronic mail messages, ~~except specifically~~  
2-25 ~~for any electronic mail messages of or to elected officials with or relating to those they represent~~  
2-26 ~~and correspondence of or to elected officials in their official capacities~~) or other material

2-27 regardless of physical form or characteristics made or received pursuant to law or ordinance or in  
2-28 connection with the transaction of official business by any agency. For the purposes of this  
2-29 chapter, and subject to the provisions of subsection 38-2-3(b), the following records shall not be  
2-30 deemed public:

2-31 (A) (I) ~~(a) All records which are identifiable to an individual applicant for benefits,~~  
2-32 ~~client, patient, student, or employee, including, but not limited to, personnel, medical treatment,~~  
2-33 ~~welfare, employment security, pupil records, all records relating to a client/attorney relationship~~  
2-34 ~~and to a doctor/patient relationship, including and all personal or medical information relating to~~  
2-35 ~~an individual in any files; including information relating to medical or psychological facts,~~  
2-36 ~~personal finances, welfare, employment security, student performance, or information in~~  
2-37 ~~personnel files maintained to hire, evaluate, promote, or discipline any employee of a public~~  
2-38 ~~body;~~

2-39 (b) Personnel and other personal individually-identifiable records otherwise deemed  
2-40 confidential by federal law or regulation, or state law, or the disclosure of which would constitute  
2-41 a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552 (b)(6); provided,  
2-42 however, with respect to employees, the name, gross salary, salary range, total cost of paid fringe  
2-43 benefits, gross amount received in overtime, and any other remuneration in addition to salary, job  
2-44 title, job description, dates of employment and positions held with the state or municipality,  
2-45 employment contract, work location, business telephone number, the city or town of residence,  
2-46 and date of termination shall be public. For the purposes of this section "remuneration" shall  
2-47 include any payments received by an employee as a result of termination, or otherwise leaving  
2-48 employment, including, but not limited to, payments for accrued sick and/or vacation time,  
2-49 severance pay, or compensation paid pursuant to a contract buy-out provision.

2-50 (II) Notwithstanding the provisions of this section, or any other provision of the general  
2-51 laws to the contrary, the pension records of all persons who are either current or retired members  
2-52 of the retirement systems ~~established by the general laws~~ as well as all persons who become  
2-53 members of those retirement systems after June 17, 1991 shall be open for public inspection.  
2-54 "Pension records" as used in this section shall include all records containing information  
3-1 concerning pension and retirement benefits of current and retired members of the retirement  
3-2 systems established in title 8, title 36, title 42, and title 45 and future members of said systems,  
3-3 including all records concerning retirement credits purchased and the ability of any member of  
3-4 the retirement system to purchase retirement credits, but excluding all information regarding the  
3-5 medical condition of any person and all information identifying the member's designated  
3-6 beneficiary or beneficiaries unless and until the member's designated beneficiary or beneficiaries  
3-7 have received or are receiving pension and/or retirement benefits through the retirement system.

3-8 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
3-9 or corporation which is of a privileged or confidential nature.

3-10 (C) Child custody and adoption records, records of illegitimate births, and records of  
3-11 juvenile proceedings before the family court.

3-12 (D) All records maintained by law enforcement agencies for criminal law enforcement  
3-13 and all records relating to the detection and investigation of crime, including those maintained on  
3-14 any individual or compiled in the course of a criminal investigation by any law enforcement  
3-15 agency. Provided, however, such records shall not be deemed public only to the extent that the  
3-16 disclosure of the records or information (a) could reasonably be expected to interfere with  
3-17 investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of  
3-18 a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an  
3-19 unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the  
3-20 identity of a confidential source, including a state, local, or foreign agency or authority, or any  
3-21 private institution which furnished information on a confidential basis, or the information  
3-22 furnished by a confidential source, (e) would disclose techniques and procedures for law  
3-23 enforcement investigations or prosecutions, or would disclose guidelines for law enforcement  
3-24 investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical  
3-25 safety of any individual. Records relating to management and direction of a law enforcement  
3-26 agency and records or reports, including the initial narrative report, reflecting the ~~initial~~ arrest of  
3-27 an adult and the charge or charges brought against an adult shall be public. The "initial narrative

3-28 report” means the written statement(s) accompanying the arrest report of an adult(s), recounting  
3-29 the arrest and the incident(s) or circumstance(s) leading to the arrest, as prepared by the arresting  
3-30 or investigating officer(s).

3-31 (E) Any records which would not be available by law or rule of court to an opposing  
3-32 party in litigation.

3-33 (F) Scientific and technological secrets and the security plans of military and law  
3-34 enforcement agencies, the disclosure of which would endanger the public welfare and security.

4-1 (G) Any records which disclose the identity of the contributor of a bona fide and lawful  
4-2 charitable contribution to the public body whenever public anonymity has been requested of the  
4-3 public body with respect to the contribution by the contributor.

4-4 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
4-5 collective bargaining.

4-6 (I) Reports and statements of strategy or negotiation with respect to the investment or  
4-7 borrowing of public funds, until such time as those transactions are entered into.

4-8 (J) Any minutes of a meeting of a public body which are not required to be disclosed  
4-9 pursuant to chapter 46 of title 42.

4-10 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
4-11 products; provided, however, any documents submitted at a public meeting of a public body shall  
4-12 be deemed public.

4-13 (L) Test questions, scoring keys, and other examination data used to administer a  
4-14 licensing examination, examination for employment or promotion, or academic examinations;  
4-15 provided, however, that a person shall have the right to review the results of his or her  
4-16 examination.

4-17 (M) Correspondence of or to elected officials with or relating to those they represent and  
4-18 correspondence of or to elected officials that has no demonstrable connection to the exercise of  
4-19 official functions or influence. ~~and correspondence of or to elected officials in their official~~  
4-20 ~~capacities.~~

4-21 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
4-22 evaluations made for or by an agency relative to the acquisition of property or to prospective  
4-23 public supply and construction contracts, until such time as all of the property has been acquired  
4-24 or all proceedings or transactions have been terminated or abandoned; provided the law of  
4-25 eminent domain shall not be affected by this provision.

4-26 (O) All tax returns.

4-27 (P) All investigatory records of public bodies, with the exception of law enforcement  
4-28 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
4-29 actions taken provided that all records prior to formal notification of violations or noncompliance  
4-30 shall not be deemed to be public.

4-31 (Q) Records of individual test scores on professional certification and licensing  
4-32 examinations; provided, however, that a person shall have the right to review the results of his or  
4-33 her examination.

5-34 (R) Requests for advisory opinions until such time as the public body issues its opinion.

5-35 (S) Records, reports, opinions, information, and statements required to be kept  
5-36 confidential by federal law or regulation or state law, or rule of court.

5-37 (T) Judicial bodies are included in the definition only in respect to their administrative  
5-38 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
5-39 from the operation of this chapter.

5-40 (U) Library records which by themselves or when examined with other public records,  
5-41 would reveal the identity of the library user requesting, checking out, or using any library  
5-42 materials.

5-43 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of  
5-44 hearing or speech impaired.

5-45 (W) All records received by the insurance division of the department of business  
5-46 regulation from other states, either directly or through the National Association of Insurance  
5-47 Commissioners, if those records are accorded confidential treatment in that state. Nothing  
5-48 contained in this title or any other provision of law shall prevent or be construed as prohibiting

5-49 the commissioner of insurance from disclosing otherwise confidential information to the  
5-50 insurance department of this or any other state or country, at any time, so long as the agency or  
5-51 office receiving the records agrees in writing to hold it confidential in a manner consistent with  
5-52 the laws of this state.

5-53 (X) Credit card account numbers in the possession of state or local government are  
5-54 confidential and shall not be deemed public records.

5-55 (Y) Any documentary material, answers to written interrogatories, or oral testimony  
5-56 provided under any subpoena issued under Rhode Island general law section 9-1.1-6.

5-57 ~~(ii) However, any reasonably segregable portion of a public record excluded by this~~  
5-58 ~~section shall be available for public inspections after the deletion of the information which is the~~  
5-59 ~~basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this~~  
5-60 ~~section.~~

5-61 ~~(5) "Supervisor of the regulatory body" means the chief or head of a section having~~  
5-62 ~~enforcement responsibility for a particular statute or set of rules and regulations within a~~  
5-63 ~~regulatory agency.~~

5-64 ~~(5) (6) "Prevailing plaintiff" means and shall include those persons and entities deemed~~  
5-65 ~~defined as prevailing parties pursuant to 42 U.S.C. section 1988- and shall also include plaintiffs~~  
5-66 ~~who obtain any relief as a result of filing suit, whether or not a formal judgment is entered in their~~  
5-67 ~~favor.~~

6-68 **38-2-3. Right to inspect and copy records -- Duty to maintain minutes of meetings --**

6-69 **Procedures for access.** -- (a) Except as provided in section 38-2-2(4), all records maintained or  
6-70 kept on file by any public body, whether or not those records are required by any law or by any  
6-71 rule or regulation, shall be public records and every person or entity shall have the right to inspect  
6-72 and/or copy those records at such reasonable time as may be determined by the custodian thereof.

6-73 ~~(b) Any reasonably segregable portion of a public record excluded by subdivision 38-2-~~  
6-74 ~~2(4) shall be available for public inspection after the deletion of the information which is the basis~~  
6-75 ~~of the exclusion. If an entire document or record is deemed non-public, the public body shall state~~  
6-76 ~~in writing that no portion of the document or record contains reasonable segregable information~~  
6-77 ~~that is releasable.~~

6-78 ~~(b)(c)~~ Each public body shall make, keep, and maintain written or recorded minutes of  
6-79 all meetings.

6-80 ~~(c)(d)~~ Each public body shall establish written procedures regarding access to public  
6-81 records but shall not require written requests for public information available pursuant to R.I.G.L.  
6-82 section 42-35-2 or for other documents prepared for or readily available to the public.

6-83 These procedures must include, but need not be limited to, the identification of a  
6-84 designated public records officer, how to make a public records request, and where a public  
6-85 record request should be made, and a copy of these procedures shall be posted on the public  
6-86 body's website if such a website is maintained and be made otherwise readily available to the  
6-87 public. The unavailability of a designated public records officer shall not be deemed good cause  
6-88 for failure to timely comply with a request to inspect and/or copy public records pursuant to  
6-89 subsection (e). A written request for public records need not be made on a form or in a specified  
6-90 format established by a public body if the request is other wise readily identifiable as a request for  
6-91 public records.

6-92 (e) A public body receiving a request shall permit the inspection or copying within seven  
6-93 (7) business days after receiving a request. If the inspection or copying is not permitted within  
6-94 seven (7) business days, the public body shall forthwith explain in writing the need for additional  
6-95 time to comply with the request. Any such explanation must be particularized to the specific  
6-96 request made. In such cases the public body may have up to an additional twenty (20) business  
6-97 days to respond to the request if it can demonstrate that the voluminous nature of the request, the  
6-98 number of requests for records pending, or the difficulty in searching for and retrieving or  
6-99 copying the requested records, is such that additional time is necessary to avoid imposing an  
6-100 undue burden on the public body. If the volume of a request is such that search and retrieval is  
6-101 reasonably expected to exceed twenty (20) business days, a public body may apply to a justice of  
6-102 the superior court to further extend the time to comply.

7-1 ~~(d)~~ (f) If a public record is in active use or in storage and, therefore, not available at the

7-2 time a person or entity requests access, the custodian shall so inform the person or entity and  
7-3 make an appointment for the ~~citizen~~ person or entity to examine such records as expeditiously as  
7-4 they may be made available.

7-5 (e) ~~(g)~~ Any person or entity requesting copies of public records may elect to obtain them  
7-6 in any and all media in which the public agency is capable of providing them. Any public body  
7-7 which maintains its records in a computer storage system shall provide any data properly  
7-8 identified in a printout or other reasonable format, as requested.

7-9 (f) ~~(h)~~ Nothing in this section shall be construed as requiring a public body to reorganize,  
7-10 consolidate, or compile data not maintained by the public body in the form requested at the time  
7-11 the request to inspect the public records was made except to the extent that such records are in an  
7-12 electronic format and the public body would not be unduly burdened in providing such data.

7-13 (g) ~~(i)~~ Nothing in this section is intended to affect the public record status of information  
7-14 merely because it is stored in a computer.

7-15 (h) ~~(j)~~ No public records shall be withheld based on the purpose for which the records  
7-16 are sought, nor shall a public body require, as a condition of fulfilling a public records request,  
7-17 that a person or entity provide a reason for the request or provide personally identifiable  
7-18 information about him/herself.

7-19 (k) At the election of the person or entity requesting the public records, the public body  
7-20 shall provide copies of the public records electronically, by fax, or by mail in accordance with the  
7-21 requesting person or entity's choice, unless complying with that preference would be unduly  
7-22 burdensome due to the volume of records requested and the costs that would be incurred.

7-23 **38-2-4. Cost.** -- (a) Subject to the provisions of section 38-2-3, a public body must allow  
7-24 copies to be made or provide copies of public records. The cost per copied page of written  
7-25 documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents  
7-26 copyable on common business or legal size paper. A public body may not charge more than the  
7-27 reasonable actual cost for providing electronic records or retrieving records from storage where  
7-28 the public body is assessed a retrieval fee.

7-29 (b) A reasonable charge may be made for the search or retrieval of documents. Hourly  
7-30 costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs  
7-31 shall be charged for the first hour of a search or retrieval.

7-32 (c) Copies of documents shall be provided and the search and retrieval of documents  
7-33 accomplished within a reasonable time after a request. A public body upon request, shall provide  
7-34 an estimate of the costs of a request for documents prior to providing copies.

8-1 (d) Upon request, the public body shall provide a detailed itemization of the costs  
8-2 charged for search and retrieval.

8-3 (e) A court may reduce or waive the fees for costs charged for search or retrieval if it  
8-4 determines that the information requested is in the public interest because it is likely to contribute  
8-5 significantly to public understanding of the operations or activities of the government and is not  
8-6 primarily in the commercial interest of the requester.

8-7 **38-2-6. Commercial use of public records.** -- No person or business entity shall use  
8-8 information obtained from public records pursuant to this chapter ~~to solicit for commercial~~  
8-9 ~~purposes or~~ to obtain a commercial advantage over the party furnishing that information to the  
8-10 public body. Anyone who knowingly and willfully violates the provision of this section shall, in  
8-11 addition to any civil liability, be punished by a fine of not more than five hundred dollars (\$500)  
8-12 and/or imprisonment for no longer than one year.

8-13 **38-2-7. Denial of access.** -- (a) Any denial of the right to inspect or copy records, in  
8-14 whole or in part provided for under this chapter shall be made to the person or entity requesting  
8-15 the right ~~by the public body official who has custody or control of the public record~~ in writing  
8-16 giving the specific reasons for the denial within ~~ten (10)~~ seven (7) business days of the request  
8-17 and indicating the procedures for appealing the denial. Except for good cause shown, any reason  
8-18 not specifically set forth in the denial shall be deemed waived by the public body.

8-19 (b) Failure to comply with a request to inspect or copy the public record within the ~~ten~~  
8-20 ~~(10)~~ seven (7) business day period shall be deemed to be a denial. Except that for good cause, this  
8-21 limit may be extended ~~for a period not to exceed thirty (30) business days.~~ in accordance with the  
8-22 provisions of subsection 38-2-3(e) of this chapter. All copying and search and retrieval fees shall

8-23 be waived if a public body fails to produce requested records in a timely manner; provided,  
8-24 however, that the production of records shall not be deemed untimely if the public body is  
8-25 awaiting receipt of payment for costs properly charged under section 38-2-4.

8-26 (c) A public body that receives a request to inspect or copy records that do not exist or are  
8-27 not within its custody or control shall, in responding to the request in accordance with this  
8-28 chapter, state that it does not have or maintain the requested records.

8-29 **38-2-8. Administrative appeals.** -- (a) Any person or entity denied the right to inspect a  
8-30 record of a public body ~~by the custodian of the record~~ may petition the chief administrative  
8-31 officer of that public body for a review of the determinations made by his or her subordinate. The  
8-32 chief administrative officer shall make a final determination whether or not to allow public  
8-33 inspection within ~~ten (10)~~ seven (7) business days after the submission of the review petition.

9-34 (b) If the custodian of the records or the chief administrative officer determines that the  
9-35 record is not subject to public inspection, the person or entity seeking disclosure may file a  
9-36 complaint with the attorney general. The attorney general shall investigate the complaint and if  
9-37 the attorney general shall determine that the allegations of the complaint are meritorious, he or  
9-38 she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in  
9-39 the superior court of the county where the record is maintained. Nothing within this section shall  
9-40 prohibit any individual or entity from retaining private counsel for the purpose of instituting  
9-41 proceedings for injunctive or declaratory relief in the superior court of the county where the  
9-42 record is maintained.

9-43 (c) The attorney general shall consider all complaints filed under this chapter to have  
9-44 also been filed pursuant to the provisions of section 42-46-8(a), if applicable.

9-45 (d) Nothing within this section shall prohibit the attorney general from initiating a  
9-46 complaint on behalf of the public interest.

9-47 **38-2-9. Jurisdiction of superior court.** -- (a) Jurisdiction to hear and determine civil  
9-48 actions brought under this chapter is hereby vested in the superior court.

9-49 (b) The court may examine any record which is the subject of a suit in camera to  
9-50 determine whether the record or any part thereof may be withheld from public inspection under  
9-51 the terms of this chapter.

9-52 (c) Actions brought under this chapter may be advanced on the calendar upon motion of  
9-53 any party, or sua sponte by the court made in accordance with the rules of civil procedure of the  
9-54 superior court.

9-55 (d) The court shall impose a civil fine not exceeding ~~one thousand dollars (\$1,000)~~ two  
9-56 thousand five hundred dollars (\$2,500) against a public body or official found to have committed  
9-57 a knowing and willful violation of this chapter, and a civil fine not to exceed one thousand dollars  
9-58 (\$1,000) against a public body found to have recklessly violated this chapter. and shall award  
9-59 reasonable attorney fees and costs to the prevailing plaintiff. The court shall further order a public  
9-60 body found to have wrongfully denied access to public records to provide the records at no cost to  
9-61 the prevailing party; provided, further, that in the event that the court, having found in favor of  
9-62 the defendant, finds further that the plaintiff's case lacked a grounding in fact or in existing law or  
9-63 in good faith argument for the extension, modification, or reversal of existing law, the court may  
9-64 award attorneys fees and costs to the prevailing defendant.

9-65 SECTION 2. Chapter 38-2 of the General Laws entitled "Access to Public Records" is  
9-66 hereby amended by adding thereto the following sections:

9-67 **38-2-3.2. Arrest logs.** – Notwithstanding the provisions of subsection 38-2-3(e), the  
9-68 following information reflecting an initial arrest of an adult and charge or charges shall be made  
10-1 available within twenty-four (24) hours after receipt of a request, to the extent such information is  
10-2 known by the public body:

10-3 (1) Full name of the arrested adult;

10-4 (2) Home address of the arrested adult, unless doing so would identify a minor crime  
10-5 victim as prohibited in sections 11-37-8.5 or 9-1-44;

10-6 (3) Date of birth of the arrested adult;

10-7 (4) Charge or charges;

10-8 (5) Date of the arrest;

10-9 (6) Time of the arrest;

- 10-10 (7) Gender of the arrested adult;
- 10-11 (8) Race of the arrested adult; and
- 10-12 (9) Name of the arresting officer.
- 10-13 **38-2-3.16. Compliance by agencies and public bodies.** – Not later than January 1, 2013,
- 10-14 and annually thereafter, the chief administrator of each agency and each public body shall state in
- 10-15 writing to the attorney general that all officers and employees who have the authority to grant or
- 10-16 deny persons or entities access to records under this chapter have been provided orientation and
- 10-17 training regarding this chapter. The attorney general may, in accordance with the provisions of
- 10-18 chapter 35 of title 42, promulgate rules and regulations necessary to implement the requirements
- 10-19 of this section.
- 10-20 SECTION 3. This act shall take effect on September 1, 2012.



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**MOTION: To find 12 H 7555 AN ACT RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS AS/KH harmful passed, Abstaining LD,HD, PP**

Discussion: 12 H 7838 AN ACT RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS by Rep. Lally Requested by the Attorney General  
 12 S 2652 AN ACT RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS by Sen. Sheehan Requested by the Attorney General

This act would make various amendments to the access to public records act, including: making public all records which are identifiable to an individual applicant for benefits, client, patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare, employment security, pupil records, all records relating to a client/attorney relationship and to a doctor/patient relationship, including and all personal or medical information relating to an individual in any files, including information relating to medical or psychological facts, personal finances, welfare, employment security, student performance, or information in personnel files unless individually-identifiable records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This act would take effect on September 1, 2012.

- 1-1 SECTION 1. Sections 38-2-2, 38-2-3, 38-2-4, 38-2-7, 38-2-8 and 38-2-9 of the General
- 1-2 Laws in Chapter 38-2 entitled "Access to Public Records" are hereby amended to read as follows:
- 1-3 **38-2-2. Definitions.** – As used in this chapter:
- 1-4 (1) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory,
- 1-5 or administrative body of the state, or any political subdivision thereof; including, but not limited
- 1-6 to, any department, division, agency, commission, board, office, bureau, authority, any school,
- 1-7 fire, or water district, or other agency of Rhode Island state or local government which exercises
- 1-8 governmental functions, any authority as defined in section 42-35-1(b), or any other public or
- 1-9 private agency, person, partnership, corporation, or business entity acting on behalf of and/or in
- 1-10 place of any public agency.
- 1-11 (2) "Chief administrative officer" means the highest authority of the public body ~~as~~
- 1-12 ~~defined in subsection (a) of this section.~~
- 1-13 (3) "Prevailing plaintiff" means and shall include those persons and entities deemed
- 1-14 prevailing parties pursuant to 42 U.S.C. section 1988.
- 1-15 (4) "Public business" means any matter over which the public body has supervision,
- 1-16 control, jurisdiction, or advisory power.
- 1-17 (5) "Records or reports reflecting the initial arrest" means the initial face sheet of the law
- 1-18 enforcement department's report, as well as the law enforcement department's initial written
- 1-19 narrative statement, pertaining to the arrest of an adult.
- 2-20 ~~(5)(6)~~ "Public record" or "public records" shall mean all documents, papers, letters, maps,
- 2-21 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data
- 2-22 processing records, computer stored data (including electronic mail messages, except specifically
- 2-23 for any electronic mail messages of or to elected officials with or relating to those they represent
- 2-24 and correspondence of or to elected officials in their official capacities) or other material

2-25 regardless of physical form or characteristics made or received pursuant to law or ordinance or in  
2-26 connection with the transaction of official business by any agency. For the purposes of this  
2-27 chapter, the following records shall not be deemed public:

2-28 (A)(I)(a) All records ~~which are identifiable to an individual applicant for benefits, client,~~  
2-29 ~~patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare,~~  
2-30 ~~employment security, pupil records, all records relating to a client/attorney relationship and to a~~  
2-31 ~~doctor/patient relationship, including and all personal or medical information relating to an~~  
2-32 ~~individual in any files, including information relating to medical or psychological facts, personal~~  
2-33 ~~finances, welfare, employment security, student performance, or information in personnel files~~  
2-34 ~~maintained to hire, evaluate, promote, or discipline any employee of a public body;~~

2-35 (b) Personnel and other personal individually-identifiable records, the disclosure of which  
2-36 would constitute a clearly unwarranted invasion of personal privacy; provided, however, with  
2-37 respect to employees, the name, gross salary, salary range, total cost of paid fringe benefits, gross  
2-38 amount received in overtime, and any other remuneration in addition to salary, job title, job  
2-39 description, dates of employment and positions held with the state or municipality, work location,  
2-40 business telephone number, ~~the city or town of residence,~~ and date of termination shall be public.  
2-41 For the purposes of this section "remuneration" shall include any payments received by an  
2-42 employee as a result of termination, or otherwise leaving employment.

2-43 (II) Notwithstanding the provisions of this section, or any other provision of the general  
2-44 laws to the contrary, the pension records of all persons who are either current or retired members  
2-45 of the retirement systems ~~established by the general laws~~ as well as all persons who become  
2-46 members of those retirement systems after June 17, 1991 shall be open for public inspection.  
2-47 "Pension records" as used in this section shall include all records containing information  
2-48 concerning pension and retirement benefits of current and retired members of the retirement  
2-49 systems ~~established in title 8, title 36, title 42, and title 45~~ and future members of said systems,  
2-50 including all records concerning retirement credits purchased and the ability of any member of  
2-51 the retirement system to purchase retirement credits, but excluding all information regarding the  
2-52 medical condition of any person and all information identifying the member's designated  
2-53 beneficiary or beneficiaries.

3-54 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
3-55 or corporation which is of a privileged or confidential nature.

3-56 (C) Child custody and adoption records, records of illegitimate births, and records of  
3-57 juvenile proceedings before the family court.

3-58 (D) All records maintained by law enforcement agencies for criminal law enforcement  
3-59 and all records relating to the detection and investigation of crime, including those maintained on  
3-60 any individual or compiled in the course of a criminal investigation by any law enforcement  
3-61 agency. Provided, however, such records shall not be deemed public only to the extent that the  
3-62 disclosure of the records or information (a) could reasonably be expected to interfere with  
3-63 investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of  
3-64 a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an  
3-65 unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the  
3-66 identity of a confidential source, including a state, local, or foreign agency or authority, or any  
3-67 private institution which furnished information on a confidential basis, or the information  
3-68 furnished by a confidential source, (e) would disclose techniques and procedures for law  
3-69 enforcement investigations or prosecutions, or would disclose guidelines for law enforcement  
3-70 investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical  
3-71 safety of any individual. Records relating to management and direction of a law enforcement  
3-72 agency and records or reports reflecting the initial arrest of an adult and the charge or charges  
3-73 brought against an adult shall be public.

3-74 (E) Any records which would not be available by law or rule of court to an opposing  
3-75 party in litigation.

3-76 (F) Scientific and technological secrets and the security plans of military and law  
3-77 enforcement agencies, the disclosure of which would endanger the public welfare and security.

3-78 (G) Any records which disclose the identity of the contributor of a bona fide and lawful  
3-79 charitable contribution to the public body whenever public anonymity has been requested of the

3-80 public body with respect to the contribution by the contributor.

3-81 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
3-82 collective bargaining.

3-83 (I) Reports and statements of strategy or negotiation with respect to the investment or  
3-84 borrowing of public funds, until such time as those transactions are entered into.

3-85 (J) Any minutes of a meeting of a public body which are not required to be disclosed  
3-86 pursuant to chapter 46 of title 42.

3-87 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
3-88 products; provided, however, any documents submitted at a public meeting of a public body shall  
4-1 be deemed public.

4-2 (L) Test questions, scoring keys, and other examination data used to administer a  
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4-4 provided, however, that a person shall have the right to review the results of his or her  
4-5 examination.

4-6 (M) Correspondence of or to elected officials with or relating to those they represent and  
4-7 correspondence of or to elected officials in their official capacities.

4-8 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
4-9 evaluations made for or by an agency relative to the acquisition of property or to prospective  
4-10 public supply and construction contracts, until such time as all of the property has been acquired  
4-11 or all proceedings or transactions have been terminated or abandoned; provided the law of  
4-12 eminent domain shall not be affected by this provision.

4-13 (O) All tax returns.

4-14 (P) All investigatory records of public bodies, with the exception of law enforcement  
4-15 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
4-16 actions taken provided that all records prior to formal notification of violations or noncompliance  
4-17 shall not be deemed to be public.

4-18 (Q) Records of individual test scores on professional certification and licensing  
4-19 examinations; provided, however, that a person shall have the right to review the results of his or  
4-20 her examination.

4-21 (R) Requests for advisory opinions until such time as the public body issues its opinion.

4-22 (S) Records, reports, opinions, information, and statements required to be kept  
4-23 confidential by federal law or regulation or state law, or rule of court.

4-24 (T) Judicial bodies are included in the definition only in respect to their administrative  
4-25 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
4-26 from the operation of this chapter.

4-27 (U) Library records which by themselves or when examined with other public records,  
4-28 would reveal the identity of the library user requesting, checking out, or using any library  
4-29 materials.

4-30 (V) Printouts from TELE – TEXT devices used by people who are deaf or hard of  
4-31 hearing or speech impaired.

4-32 (W) All records received by the insurance division of the department of business  
4-33 regulation from other states, either directly or through the National Association of Insurance  
4-34 Commissioners, if those records are accorded confidential treatment in that state. Nothing  
5-1 contained in this title or any other provision of law shall prevent or be construed as prohibiting  
5-2 the commissioner of insurance from disclosing otherwise confidential information to the  
5-3 insurance department of this or any other state or country, at any time, so long as the agency or  
5-4 office receiving the records agrees in writing to hold it confidential in a manner consistent with  
5-5 the laws of this state.

5-6 (X) Credit card account numbers in the possession of state or local government are  
5-7 confidential and shall not be deemed public records.

5-8 (Y) Any documentary material, answers to written interrogatories, or oral testimony  
5-9 provided under any subpoena issued under Rhode Island general law section 9-1.1-6.

5-10 (ii) However, any reasonably segregable portion of a public record excluded by this  
5-11 section shall be available for public inspections after the deletion of the information which is the  
5-12 basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this

5-13 section.

5-14 (6) "Supervisor of the regulatory body" means the chief or head of a section having  
5-15 enforcement responsibility for a particular statute or set of rules and regulations within a  
5-16 regulatory agency.

5-17 **38-2-3. Right to inspect and copy records – Duty to maintain minutes of meetings –**

5-18 **Procedures for access.** – (a) Except as provided in section 38-2-2~~(5)~~(6), all records maintained  
5-19 or kept on file by any public body, whether or not those records are required by any law or by any  
5-20 rule or regulation, shall be public records and every person or entity shall have the right to inspect  
5-21 and/or copy those records at such reasonable time as may be determined by the custodian thereof.

5-22 (b) Each public body shall make, keep, and maintain written or recorded minutes of all  
5-23 meetings.

5-24 (c) Each public body shall establish written procedures regarding access to public records  
5-25 but shall not require written requests for public information available pursuant to R.I.G.L. section  
5-26 42-35-2 or for other documents prepared for or readily available to the public. These written  
5-27 procedures must include, but need not be limited to, the identification of a designated public  
5-28 records officer or unit, how to make a public record request, and where a public record request  
5-29 should be made, and a copy of these procedures shall be posted on the public body's website if  
5-30 such a website is maintained and be made otherwise readily available to the public. The  
5-31 unavailability of a designated public records officer shall not be deemed good cause for failure to  
5-32 timely comply with a request to inspect and/or copy public records. A written request for public  
5-33 records need not be made on a form established by a public body provided the request is  
5-34 otherwise readily identifiable as a request for public records.

6-1 (d) If a public record is in active use or in storage and, therefore, not available at the time  
6-2 a person requests access, the custodian shall so inform the person and make an appointment for  
6-3 the citizen to examine such records as expeditiously as they may be made available.

6-4 (e) Any person or entity requesting copies of public records may elect to obtain them in  
6-5 any and all media in which the public agency is capable of providing them. Any public body  
6-6 which maintains its records in a computer storage system shall provide any data properly  
6-7 identified in a printout or other reasonable format, as requested.

6-8 (f) Nothing in this section shall be construed as requiring a public body to reorganize,  
6-9 consolidate, or compile data not maintained by the public body in the form requested at the time  
6-10 the request to inspect the public records was made except to the extent that such records are in an  
6-11 electronic format and the public body would not be unduly burdened in providing such data.

6-12 (g) Nothing in this section is intended to affect the public record status of information  
6-13 merely because it is stored in a computer.

6-14 (h) No public records shall be withheld based on the purpose for which the records are  
6-15 sought, nor shall a public body require, as a condition of fulfilling a public records request, that a  
6-16 person or entity provide a reason for the request or provide personally identifiable information  
6-17 about him/herself.

6-18 (i) At the election of the person or entity requesting the public records, the public body  
6-19 shall provide copies of the public records electronically, by facsimile, or by mail in accordance  
6-20 with the requesting person or entity's choice, unless complying with that preference would be  
6-21 unduly burdensome due to the volume of records requested. The person requesting delivery shall  
6-22 be responsible for the actual cost of delivery, if any.

6-23 **38-2-4. Cost.** – (a) Subject to the provisions of section 38-2-3, a public body must allow  
6-24 copies to be made or provide copies of public records. The cost per copied page of written  
6-25 documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents  
6-26 copyable on common business or legal size paper. A public body may not charge more than the  
6-27 reasonable actual cost for providing electronic records or retrieving records from storage where  
6-28 the public body is assessed a retrieval fee.

6-29 (b) A reasonable charge may be made for the search or retrieval of documents. Hourly  
6-30 costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs  
6-31 shall be charged for the first hour of a search or retrieval. For purposes of this subsection any  
6-32 person or entity submitting multiple requests to the same public body within a thirty (30) day time  
6-33 period shall be counted as one request.

7-34 (c) Copies of documents shall be provided and the search and retrieval of documents  
7-35 accomplished within a reasonable time after a request. A public body upon request shall provide  
7-36 an estimate of the costs of a request for documents prior to providing copies.

7-37 (d) Upon request, the public body shall provide a detailed itemization of the costs  
7-38 charged for search and retrieval.

7-39 (e) A court may reduce or waive the fees for costs charged for search or retrieval if it  
7-40 determines that the information requested is in the public interest because it is likely to contribute  
7-41 significantly to public understanding of the operations or activities of the government and is not  
7-42 primarily in the commercial interest of the requester.

7-43 **38-2-7. Denial of access.** – (a) Any denial of the right to inspect or copy records, in  
7-44 whole or in part, provided for under this chapter shall be made to the person or entity requesting  
7-45 the right ~~by the public body official who has custody or control of the public record~~ in writing  
7-46 giving the specific reasons for the denial within ten (10) business days of the request and  
7-47 indicating the procedures for appealing the denial. Except for good cause shown, any reason not  
7-48 specifically set forth in the denial shall be deemed waived by the public body.

7-49 (b) Failure to comply with a request to inspect or copy the public record within the ten  
7-50 (10) business day period shall be deemed to be a denial. Except that for good cause, this limit  
7-51 may be extended for a period not to exceed thirty (30) business days. If the volume of a request  
7-52 is such that search and retrieval is reasonably expected to exceed thirty (30) business days, a  
7-53 public body may apply to a justice of the superior court to further extend the time to comply. All  
7-54 copying and search and retrieval fees shall be waived if a public body fails to produce requested  
7-55 records in a timely manner; provided, however, that the production of records shall not be  
7-56 deemed untimely if the public body is awaiting receipt of payment for costs properly charged  
7-57 under section 38-2-4.

7-58 (c) A public body that receives a request to inspect or copy records that do not exist or are  
7-59 not within its custody or control shall, in responding to the request in accordance with this  
7-60 chapter, certify that a reasonable search has been conducted for the requested records and that it  
7-61 does not have or maintain the requested records.

7-62 **38-2-8. Administrative appeals.** – (a) Any person or entity denied the right to inspect a  
7-63 record of a public body ~~by the custodian of the record~~ may petition the chief administrative  
7-64 officer of that public body for a review of the determinations made by his or her subordinate. The  
7-65 chief administrative officer shall make a final determination whether or not to allow public  
7-66 inspection within ten (10) business days after the submission of the review petition.

7-67 (b) If the custodian of the records or the chief administrative officer determines that the  
7-68 record is not subject to public inspection, the person or entity seeking disclosure may file a  
8-1 complaint with the attorney general. The attorney general shall investigate the complaint and if  
8-2 the attorney general shall determine that the allegations of the complaint are meritorious, he or  
8-3 she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in  
8-4 the superior court of the county where the record is maintained. Nothing within this section shall  
8-5 prohibit any individual or entity from retaining private counsel for the purpose of instituting  
8-6 proceedings for injunctive or declaratory relief in the superior court of the county where the  
8-7 record is maintained.

8-8 (c) The attorney general shall consider all complaints filed under this chapter to have also  
8-9 been filed pursuant to the provisions of section 42-46-8(a), if applicable.

8-10 (d) Nothing within this section shall prohibit the attorney general from initiating a  
8-11 complaint on behalf of the public interest.

8-12 **38-2-9. Jurisdiction of superior court.** – (a) Jurisdiction to hear and determine civil  
8-13 actions brought under this chapter is hereby vested in the superior court.

8-14 (b) The court may examine any record which is the subject of a suit in camera to  
8-15 determine whether the record or any part thereof may be withheld from public inspection under  
8-16 the terms of this chapter.

8-17 (c) Actions brought under this chapter may be advanced on the calendar upon motion of  
8-18 any party, or sua sponte by the court made in accordance with the rules of civil procedure of the  
8-19 superior court.

8-20 (d) The court shall impose a civil fine not exceeding ~~one thousand dollars (\$1,000)~~ five

8-21 thousand dollars (\$5,000) against a public body or official found to have committed a knowing  
8-22 and willful violation of this chapter, and a civil fine not to exceed two thousand dollars (\$2,000)  
8-23 against a public body found to have recklessly violated this chapter and shall award reasonable  
8-24 attorney fees and costs to the prevailing plaintiff. The court shall further order a public body  
8-25 found to have wrongfully denied access to public records to provide the records at no cost to the  
8-26 prevailing party; provided, further, that in the event that the court, having found in favor of the  
8-27 defendant, finds further that the plaintiff's case lacked a grounding in fact or in existing law or in  
8-28 good faith argument for the extension, modification, or reversal of existing law, the court may  
8-29 award attorneys fees and costs to the prevailing defendant.

8-30 SECTION 2. Chapter 38-2 of the General Laws entitled "Access to Public Records" is  
8-31 hereby amended by adding thereto the following section:

8-32 **38-2-3.16. Compliance by agencies and public bodies.** – Not later than January 1, 2013,  
8-33 and annually thereafter, the chief administrator of each agency and each public body shall certify  
8-34 to the attorney general that all officers and employees who have the authority to grant or deny  
9-1 persons or entities access to records under this chapter have been provided orientation and  
9-2 training regarding this chapter. The attorney general may, in accordance with the provisions of  
9-3 chapter 35 of title 42, promulgate rules and regulations necessary to implement the requirements  
9-4 of this section.

9-5 SECTION 3. Section 38-2-6 of the General Laws in Chapter 38-2 entitled "Access to  
9-6 Public Records" is hereby repealed.

9-7 ~~**38-2-6. Commercial use of public records.** – No person or business entity shall use~~  
9-8 ~~information obtained from public records pursuant to this chapter to solicit for commercial~~  
9-9 ~~purposes or to obtain a commercial advantage over the party furnishing that information to the~~  
9-10 ~~public body. Anyone who knowingly and willfully violates the provision of this section shall, in~~  
9-11 ~~addition to any civil liability, be punished by a fine of not more than five hundred dollars (\$500)~~  
9-12 ~~and/or imprisonment for no longer than one year.~~

9-13 SECTION 4. This act shall take effect on September 1, 2012.



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**MOTION: To find 12 H 7838 & 12 S 2652 ACTS RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS harmful AS/RH passed, Nay RC, Abstaining LD, PP, HD**

Discussion: 12 H 7862 AN ACT RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY INSURANCE - BENEFITS by Rep. Coderre  
This act would create a temporary caregiver insurance benefit as part of the temporary disability insurance law.

This act would take effect upon passage.

1-1 SECTION 1. Chapter 28-41 of the General Laws entitled "Temporary Disability  
1-2 Insurance - Benefits" is hereby amended by adding thereto the following section:

1-3 **28-41-34. Temporary caregiver insurance.** – (a) Definitions as used in this chapter:

1-4 (1) "Child" means a biological, adopted, or foster son or daughter, a stepson or  
1-5 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a son or daughter of an  
1-6 employee who stands in loco parentis to that child.

1-7 (2) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian,  
1-8 or other person who stood in loco parentis to the employee or the employee's spouse or domestic  
1-9 partner when he/she was a child.

1-10 (3) "Domestic partner" means a party to a civil union as defined by chapter 15-3.1.

1-11 (4) "Spouse" means defined as a party in a common law marriage, a party in a marriage  
1-12 conducted and recognized by another state or country, or in a marriage as defined by chapter 15-  
1-13 3.

1-14 (5) "Serious health condition" means any illness, injury, impairment, or physical or  
1-15 mental condition that involves inpatient care in a hospital, hospice, residential health care facility,  
1-16 or continued treatment or continuing supervision by a health care provider.

1-17 (b) Benefits:

1-18 (1) An employee shall be eligible for temporary caregiver insurance on any day in which

1-19 he or she is unable to perform his or her regular and customary work because he or she is caring  
2-1 for a child or caring for a parent, grandparent, spouse, domestic partner, grandparent or in-law,  
2-2 subject to a waiting period of seven (7) days. Employees may use accrued sick time during  
2-3 eligibility waiting period.

2-4 (2) Temporary caregiver insurance shall be available only to the caregiver. An employee  
2-5 cannot file for both temporary caregiver insurance and temporary disability insurance for the  
2-6 same purpose.

2-7 (3) Any employee who exercises his or her right to leave covered by temporary caregiver  
2-8 insurance under this chapter shall, upon the expiration of that leave, be entitled to be restored by  
2-9 the employer to the position held by the employee when the leave commenced, or to a position  
2-10 with equivalent seniority, status, employment benefits, pay, and other terms and conditions of  
2-11 employment including fringe benefits and service credits that the employee had been entitled to at  
2-12 the commencement of leave.

2-13 (4) During any caregiver leave taken pursuant to this chapter, the employer shall maintain  
2-14 any existing health benefits of the employee in force for the duration of the leave as if the  
2-15 employee had continued in employment continuously from the date he or she commenced the  
2-16 leave until the date he or she returns to employment.

2-17 (c) Certification of eligibility for leave. A certificate filed to establish medical eligibility  
2-18 of the serious health condition of the employee's family member that warrants the care of the  
2-19 employee shall contain:

2-20 (1) A diagnosis and diagnostic code prescribed in the international classification of  
2-21 diseases, or where no diagnosis has yet been obtained, a detailed statement of symptoms;

2-22 (2) The date if known, on which the condition commenced;

2-23 (3) The probable duration of the condition;

2-24 (4) An estimate of the amount of time that the health care provider believes the employee  
2-25 is needed to care for the family member;

2-26 (5) A statement that the serious health condition warrants the participation of the  
2-27 employee to provide care for his or her family member. "Warrants the participation of the  
2-28 employee" includes, but is not limited to, providing psychological comfort, arranging third-party  
2-29 care for the family member as well as directly providing, or participating in the medical and  
2-30 physical care of the patient; and

2-31 (6) A certificate filed to establish medical eligibility of the serious health condition of the  
2-32 employee's family member shall be made by the family member's treating health care provider. If  
2-33 the family member resides or is in care outside of Rhode Island, the treating health care provider  
2-34 must be duly licensed or certified by the state or foreign country in which the family member is  
3-1 receiving the care and treatment.

3-2 (d) Contributions: The temporary caregiver Insurance program will be funded solely  
3-3 through an employee contribution. The taxable rate will be in accordance with the employee  
3-4 contribution rate to the temporary disability insurance fund. The employee contribution rate shall  
3-5 be increased commencing January 1, 2013 by an amount no greater than one tenth of one percent  
3-6 (.1%) as determined by department of labor and training estimates. There shall be a one year  
3-7 period during which benefits shall not be paid. Benefit payments shall commence no later than  
3-8 February 1, 2014. The provisions of chapter 28-40 shall apply.

3-9 (e) The director of the department of labor and training shall promulgate regulations  
3-10 relative to the operation of the temporary caregiver insurance program, and disseminate  
3-11 information regarding the program to Rhode Island employers.

3-12 (f) The temporary caregiver insurance program shall be part of the temporary disability  
3-13 insurance fund.

3-14 (g) Misrepresentation with respect to benefits:

3-15 (1) An individual who has been convicted by a court of competent jurisdiction of  
3-16 knowingly or fraudulently making a false statement, or knowingly or fraudulently  
3-17 misrepresenting a material fact, with intent to defraud the temporary disability insurance fund of  
3-18 any benefit or wrongfully to obtain or increase any benefit, either for himself or herself or for any  
3-19 other person, shall be disqualified from receiving benefits for a period of one year following that  
3-20 conviction.

3-21 (2) If a physician or other health care provider licensed by a foreign country is under  
3-22 investigation by the department for assisting in the filing of false claims and the department does  
3-23 not have the legal remedies to conduct a criminal investigation or prosecution in that country, the  
3-24 department may suspend the processing of all further certifications until the health care provider  
3-25 fully cooperates and continues to cooperate with the investigation. A health care provider licensed  
3-26 by and practicing in a foreign country who has been convicted of filing false claims with the  
3-27 department shall be barred indefinitely from filing a certificate in support of a temporary  
3-28 disability insurance or temporary caregiver insurance claim in the state of Rhode Island.

3-29 SECTION 2. This act shall take effect upon passage.



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MOTION: To find 12 H 7862 AN ACT RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY INSURANCE - BENEFITS beneficial GR/RH Failed - Nay RC, LW, SB, KH, & AP Yeas JD, RH, GR, Abstaining HD, LD, PP

MOTION: To work with sponsor on the concept of TDI for the caregiver, for introduction next year. AP/GR, passed, Nay KH, Abstaining PP, LD, HD

Discussion: 12 S 2076 AN ACT RELATING TO INSURANCE - AUTISM SPECTRUM DISORDERS by Sen.O'Neill

12 H 7165 AN ACT RELATING TO INSURANCE - AUTISM SPECTRUM DISORDERS by Rep. Palumbo

This act would require health insurance providers to cover psychological, psychiatric and pharmaceutical treatments for individuals with Autism Spectrum Disorders (insurers are currently required to cover ABA, physical therapy, occupational therapy, speech therapy). It also requires those supervising as well as providing ABA to be licensed as a behavioral analyst, assistant behavioral analyst or having relevant experience credentialed by the insurer.

This act will take effect upon passage.

1-1 SECTION 1. Sections 27-20.11-1, 27-20.11-3 and 27-20.11-7 of the General Laws in  
1-2 Chapter 27-20.11 entitled "Autism Spectrum Disorders" are hereby amended to read as follows:

1-3 **27-20.11-1. Mandatory coverage for Autism spectrum disorders.** -- (a) Every group  
1-4 health insurance contract, or every group hospital or medical expense insurance policy, plan, or  
1-5 group policy delivered, issued for delivery, or renewed in this state, by any health insurance  
1-6 carrier, on or after January 1, 2012, shall provide coverage for autism spectrum disorders;  
1-7 provided, however, the provisions of this chapter shall not apply to contracts, plans or group  
1-8 policies subject to the Small Employer Health Insurance Availability Act, chapter 50 of this title,  
1-9 Medical Assistance, Chapter 40-8, or subject to the Individual Health Insurance Coverage Act,  
1-10 chapter 18.5 of this title.

1-11 **27-20.11-3. Scope of coverage.** -- (a) Benefits under this section shall include coverage  
1-12 for pharmaceuticals applied behavior analysis, physical therapy, speech therapy, psychology,  
1-13 psychiatric and occupational therapy services for the treatment of Autism spectrum disorders, as  
1-14 defined in the most recent edition of the DSM. Provided, however: (1) Coverage for physical  
1-15 therapy, speech therapy and occupational therapy and psychology, psychiatry and pharmaceutical  
1-16 services shall be to the extent such services are a covered benefit for other diseases and conditions  
1-17 under such policy; and (2) Applied behavior analysis shall be limited to thirty-two thousand  
1-18 dollars (\$32,000) per person per year.

1-19 (b) Benefits under this section shall continue until the covered individual reaches age  
1-20 fifteen (15).

2-1 (c) The health care benefits outlined in this chapter apply only to services delivered  
2-2 within the State of Rhode Island; provided, that all health insurance carriers shall be required to  
2-3 provide coverage for those benefits mandated by this chapter outside of the State of Rhode Island  
2-4 where it can be established through a pre-authorization process that the required services are not  
2-5 available in the State of Rhode Island from a provider in the health insurance carrier's network.

2-6 **27-20.11-7. Credentialing and contracting practices.** -- (a) Any individual providing or  
 2-7 supervising applied behavior analysis treatment under this section shall be:  
 2-8 (1) Individually licensed by the department of health as a ~~healthcare provider/clinician~~  
 2-9 licensed behavior analyst or licensed assistant behavior analyst pursuant to chapter 42-35 or 42-  
 2-10 35-1 et al. and nationally certified as a Board Certified Behavior Analyst (BCBA); and  
 2-11 credentialed by the insurer; or  
 2-12 (2) Individually ~~nationally certified as a Board Certified Assistant Behavior Analyst~~  
 2-13 ~~(BCaBA) supervised by a Board Certified Behavior Analyst who is~~ licensed by the department of  
 2-14 health as a psychologist, ~~social worker or therapist; and credentialed by the insurer with relevant~~  
 2-15 experience credentialed by the insurer.  
 2-16 (b) Nothing in this chapter shall be construed to require a change in the credentialing or  
 2-17 contracting practices of health insurers for mental health or substance abuse providers.  
 2-18 SECTION 2. This act shall take effect upon passage.



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**MOTION: To find 12 S 2076 & 12 H 7165 ACTS RELATING TO INSURANCE -  
 AUTISM SPECTRUM DISORDERS harmful AP/KH passed Abstaining RC, PP, LD,  
 HD**

**Discussion: 12 S 2560 AN ACT RELATING TO INSURANCE -- AUTISM SPECTRUM  
 DISORDERS by Sen. O'Neill**

This act would mandate that insurance for Autism spectrum disorders include coverage for pharmaceuticals and for psychological and psychiatric services. This act would also require individuals providing behavior analysis treatment be licensed by the department of health and credentialed by an insurer. Medicaid would be exempt from these requirements.

This act would take effect upon passage.

1-1 SECTION 1. Sections 27-20.11-1, 27-20.11-3 and 27-20.11-7 of the General Laws in  
 1-2 Chapter 27-20.11 entitled "Autism Spectrum Disorders" are hereby amended to read as follows:  
 1-3 **27-20.11-1. Mandatory coverage for Autism spectrum disorders.** -- (a) Every group  
 1-4 health insurance contract, or every group hospital or medical expense insurance policy, plan, or  
 1-5 group policy delivered, issued for delivery, or renewed in this state, by any health insurance  
 1-6 carrier, on or after January 1, 2012, shall provide coverage for autism spectrum disorders;  
 1-7 provided, however, the provisions of this chapter shall not apply to contracts, plans or group  
 1-8 policies subject to the Small Employer Health Insurance Availability Act, chapter 50 of this title,  
 1-9 Medical Assistance, chapter 40-8, or subject to the Individual Health Insurance Coverage Act,  
 1-10 chapter 18.5 of this title.

1-11 **27-20.11-3. Scope of coverage.** -- (a) Benefits under this section shall include coverage  
 1-12 for pharmaceuticals, applied behavior analysis, physical therapy, speech therapy, psychology,  
 1-13 psychiatric and occupational therapy services for the treatment of Autism spectrum disorders, as  
 1-14 defined in the most recent edition of the DSM. Provided, however:

1-15 (1) Coverage for physical therapy, speech therapy and occupational therapy and  
 1-16 psychology, psychiatry and pharmaceutical services shall be, to the extent such services are a  
 1-17 covered benefit for other diseases and conditions under such policy; and

1-18 (2) Applied behavior analysis shall be limited to thirty-two thousand dollars (\$32,000)  
 1-19 per person per year.

2-20 (b) Benefits under this section shall continue until the covered individual reaches age  
 2-21 fifteen (15).

2-22 (c) The health care benefits outlined in this chapter apply only to services delivered  
 2-23 within the State of Rhode Island; provided, that all health insurance carriers shall be required to  
 2-24 provide coverage for those benefits mandated by this chapter outside of the State of Rhode Island  
 2-25 where it can be established through a pre-authorization process that the required services are not  
 2-26 available in the State of Rhode Island from a provider in the health insurance carrier's network.

2-27 **27-20.11-7. Credentialing and contracting practices.** -- (a) Any individual providing or  
 2-28 supervising applied behavior analysis treatment under this section shall be:

2-29 (1) Individually licensed by the department of health as a ~~healthcare provider/clinician~~

2-30 ~~pursuant to chapter 42-35 or 42-35-1 et al. and nationally certified as a Board Certified Behavior~~  
2-31 ~~Analyst (BCBA); and credentialed by the insurer; licensed applied behavior analyst; or~~  
2-32 ~~(2) Individually nationally certified as a Board Certified Assistant Behavior Analyst~~  
2-33 ~~(BCaBA) supervised by a Board Certified Behavior Analyst who is licensed Licensed by the~~  
2-34 ~~department of health as a psychologist, social worker or therapist; and credentialed by the insurer.~~  
2-35 ~~within their scope of practice; and~~  
2-36 ~~(3) Credentialed by the insurer.~~  
2-37 (b) Nothing in this chapter shall be construed to require a change in the credentialing or  
2-38 contracting practices of health insurers for mental health or substance abuse providers.  
2-39 SECTION 2. This act shall take effect upon passage.



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## MOTION: To find 12 S 2560 AN ACT RELATING TO INSURANCE -- AUTISM SPECTRUM DISORDERS harmful JD/RH passed, Abstaining PP, RC, LD, HD

Discussion: 12 H 7797 AN ACT RELATING TO INSURANCE - MANDATED BENEFITS by Rep. Morgan

This act would create a commission, of 6 members of the general assembly to review mandated healthcare coverage and eliminate those determined not to be critical, unless the general assembly chooses to re-enact them.

This act would take effect upon passage.

1-1 SECTION 1. Chapter 27-69 of the General Laws entitled "Mandated Benefits" is hereby  
1-2 amended by adding thereto the following section:  
1-3 **27-69-4.1. Mandated benefit review.** -- (a) The general assembly finds that this state has  
1-4 in excess of sixty-five (65) health insurance coverages which are mandated to be included in  
1-5 health insurance policies sold in the state. The average number of health insurance coverages  
1-6 required to be included in health insurance policies sold in the United States is forty-three (43).  
1-7 This state has the highest number of health insurance mandated coverages in the United States.  
1-8 Reducing the number of health insurance mandated coverages would reduce the cost of health  
1-9 insurance being paid by businesses located in the state and by state and local government.  
1-10 (b) Legislative purpose. In order to reduce the cost to businesses located in the state and  
1-11 to the state and local governments it is necessary to create a commission with authority to reduce  
1-12 the number of health insurance mandated coverages and to determine the essential health  
1-13 insurance medical coverages required to be included in health insurance coverages sold in this  
1-14 state.  
1-15 (c) Notwithstanding any law or regulation to the contrary, a commission shall be  
1-16 established to conduct a review of the impact of each existing or proposed state benefit mandate,  
1-17 either statutory or regulatory. Said commission shall be comprised of six (6) members, three (3)  
1-18 members appointed by the speaker of the house of representatives with no more than two (2)  
1-19 members from the same political party, and three (3) members appointed by the president of the  
1-20 senate with no more than two (2) members from the same political party.  
2-1 (d) The commission shall determine which essential insurance mandated coverages shall  
2-2 be required to be included in all health insurance policies sold in the state. The commission shall  
2-3 also create a list of health insurance mandated coverages required by statute or regulation which  
2-4 shall be eliminated due to the fact that such coverages are not essential. Such determination shall  
2-5 be included in a plan of essential health insurance mandated coverages to be submitted to the  
2-6 speaker of the house of representatives and the president of the senate within one year from the  
2-7 formation of the commission.  
2-8 (e) The plan submitted to the speaker of the house of representatives and the president of  
2-9 the senate shall be enforced by the department of business regulation unless any health insurance  
2-10 mandated coverage eliminated by the plan shall be reenacted by the general assembly within one  
2-11 year of the submission of the plan to the speaker of the house of representatives and the president  
2-12 of the senate.  
2-13 SECTION 2. This act shall take effect upon passage.



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**MOTION: To find 12 H 7797 AN ACT RELATING TO INSURANCE - MANDATED BENEFITS harmful AP/KH passed, Abstaining PP, LD, HD**

Discussion: 12 H 7907 RELATING TO BEHAVIORAL HEALTH CARE DEVELOPMENTAL DISABILITIES AND HOSPITALS - GROUP HOMES by Rep. Newberry

No person, or entity or entities in which that person has more than a fifty percent (50%) interest, shall maintain more than three (3) such facilities in any one city or town for each ten thousand (10,000) of its inhabitants as determined by the last census taken under the authority of the United States or the state.

This act would take effect upon passage.

1-1 SECTION 1. Section 40.1-24-1 of the General Laws in Chapter 40.1-24 entitled "Persons  
1-2 With Mental Illness, Addiction/Substance Abuse Disorders and Developmental Disabilities" is  
1-3 hereby amended to read as follows:

1-4 **40.1-24-1. Definitions.** -- As used in this chapter:

1-5 (1) "Adult foster home" means a private family living arrangement which, through  
1-6 financial support from the parent deinstitutionalization subsidy aid program, provides housing  
1-7 and supervision to two (2) or more persons with mental illness, addiction/substance abuse  
1-8 disorders or who are persons with developmental disabilities or otherwise eligible under section  
1-9 40.1-1-10.1. Foster homes serving fewer than two (2) adults, foster home situations wherein the  
1-10 foster parents are natural or adoptive parent(s) or grandparents, and any facility licensed by the  
1-11 department of children, youth, and families shall be excluded for the purposes of this chapter.

1-12 (2) "Community residence" means any home or other living arrangement which is  
1-13 established, offered, maintained, conducted, managed, or operated by any person for a period of  
1-14 at least twenty-four (24) hours, where, on a twenty-four (24) hour basis, direct supervision is  
1-15 provided for the purpose of providing rehabilitative treatment, habilitation, psychological support,  
1-16 and/or social guidance for three (3) or more persons with mental illness, addiction/substance  
1-17 abuse disorders or who are persons with developmental disabilities or cognitive disabilities such  
1-18 as brain injury. The facilities shall include, but not be limited to, group homes, halfway houses,  
1-19 and fully supervised apartment programs. No person, or entity or entities in which that person  
2-1 has more than a fifty percent (50%) interest, shall maintain more than three (3) such facilities in  
2-2 any one city or town for each ten thousand (10,000) of its inhabitants as determined by the last  
2-3 census taken under the authority of the United States or the state. Semi-independent living  
2-4 programs, foster care, and parent deinstitutionalization subsidy aid programs shall not be  
2-5 considered community residences for the purposes of this chapter.

2-6 (3) "Day treatment program" means any nonresidential facility which is established,  
2-7 offered, maintained, conducted, managed, or operated by any person for a period of less than  
2-8 twenty-four (24) hours to provide therapeutic intervention to persons with mental illness,  
2-9 addiction/substance abuse disorders, or who are persons with developmental disabilities or  
2-10 cognitive disabilities such as brain injury. These shall include, but not be limited to, outpatient  
2-11 programs for persons with mental illness, addiction/substance abuse disorders or who are persons  
2-12 with developmental disabilities or cognitive disabilities such as brain injury.

2-13 (4) "Deemed status" means acceptance by the department of accreditation granted by a  
2-14 national accreditation organization which has been recognized and approved by the department,  
2-15 including, but not limited to, the joint commission, the commission on accreditation of  
2-16 rehabilitation facilities, or the council on accreditation. Accreditation by a national accreditation  
2-17 organization that has been approved by the department shall serve as evidence of compliance with  
2-18 some or all of the department's rules and regulations for license renewal, as promulgated under  
2-19 section 40.1-24-9.

2-20 (5) "Department" means the department of behavioral healthcare, developmental  
2-21 disabilities and hospitals.

2-22 (6) "Facility" means any community residence, day treatment program, rehabilitation  
2-23 program, public or private, excluding hospitals or units within hospitals for persons with mental  
2-24 illness, addiction/substance abuse disorders or who are persons with developmental disabilities or  
2-25 cognitive disabilities such as brain injury providing program services which do not constitute

2-26 medical or custodial care, but do offer rehabilitation, habilitation, psychological support, and  
2-27 social guidance.

2-28 (7) "Habilitation program" means any nonresidential facility which is established,  
2-29 offered, maintained, conducted, managed, or operated by any person for a period of less than  
2-30 twenty-four (24) hours to provide training in basic daily living skills and developmental activities,  
2-31 prevocational skills and/or vocational training and placement, and follow up for people with  
2-32 mental illness, addiction/substance abuse disorders or who are persons with developmental  
2-33 disabilities or cognitive disabilities such as brain injury. These shall include, but not be limited to,  
2-34 early intervention, adult development, work activities, sheltered workshops, advanced workshops,  
3-1 and job development and training programs. Sheltered workshops not exclusively for people with  
3-2 mental illness, addiction/substance abuse disorders or who are persons with developmental  
3-3 disabilities or cognitive disabilities such as brain injury shall be excluded for the purposes of this  
3-4 chapter.

3-5 (8) "Person" means any individual, governmental unit, corporation, company,  
3-6 association, or joint stock association and the legal successor thereof.

3-7 (9) "Program" means a planned service delivery system structured to provide specific  
3-8 components, which are responsive to the needs of those served.

3-9 (10) "Rehabilitation program" means any facility, which is established, offered,  
3-10 maintained, conducted, managed, or operated by any person to provide restorative therapy and/or  
3-11 training to persons with mental illness, addiction/substance abuse disorders or who are persons  
3-12 with developmental disabilities or cognitive disabilities such as brain injury. These shall include,  
3-13 but not be limited to, community mental health centers. Sheltered workshops not exclusively for  
3-14 people with mental illness, addiction/substance abuse disorders or who are persons with  
3-15 developmental disabilities or cognitive disabilities such as brain injury shall be excluded for the  
3-16 purposes of this chapter. P.L. 1972, ch. 160, section 1; P.L. 1978, ch. 150, section  
3-17 2; G.L. 1956, section 23-43.3-1; P.L. 1979, ch. 39, section 1; P.L. 1982, ch. 166, section 1; P.L.  
3-18 1992, ch. 418, section 8; P.L. 1995, ch. 370, art. 14, section 16; P.L. 1999, ch. 83, section 112;  
3-19 P.L. 1999, ch. 130, section 112; P.L. 2001, ch. 385, section 2; P.L. 2001, ch. 389, section 1; P.L.  
3-20 2005, ch. 351, section 3; P.L. 2005, ch. 394, section 3; P.L. 2011, ch. 152, section 2; P.L. 2011,  
3-21 ch. 171, section 2.

3-22 SECTION 2. This act shall take effect upon passage.



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**MOTION: To find 12 H 7907 RELATING TO BEHAVIORAL HEALTH CARE  
DEVELOPMENTAL DISABILITIES AND HOSPITALS - GROUP HOMES  
harmful RC/RH passed Abstaining PP, LD**

Discussion: 12 H 7572 AN ACT RELATING TO PUBLIC PROPERTY AND WORKS -- STATE  
PURCHASES by Rep. Trillo

This act would require any state-funded purchases of prosthetic devices be made from a  
vendor or manufacturer that has a headquarters or primary place of business within the state  
of Rhode Island.

This act shall take effect upon passage.

1-1 SECTION 1. Chapter 37-2 of the General Laws entitled "State Purchases" is hereby  
1-2 amended by adding thereto the following section:

1-3 **37-2-72.1. Prosthetic medical or dental devices or materials - Selection of vendors**  
1-4 **and manufacturers with place of business located in Rhode Island. -- Notwithstanding any**  
1-5 **provision of law to the contrary contained in any general or public law, rule or regulation, in**  
1-6 **instances where purchases of, or contracts for, prosthetic medical or dental devices or materials**  
1-7 **are supported by state funds, the state shall select a vendor or manufacturer whose headquarters**  
1-8 **or primary place of business is located within the state.**

1-9 SECTION 2. This act shall take effect upon passage.



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**MOTION: To find 12 H 7572 AN ACT RELATING TO PUBLIC PROPERTY AND  
WORKS -- STATE PURCHASES harmful RC/KH passed, Abstaining LD, HD,**

Discussion: 12 H 7655 AN ACT RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES by Rep. Naughton

This act would allow school districts to refer to and place special education students in non-public schools with educators who do not meet the Department of Education's certification requirements for public school regular or special education certification.

This act would take effect upon passage.

- 1-1 SECTION 1. Section 16-24-1 of the General Laws in Chapter 16-24 entitled "Children  
1-2 with Disabilities" is hereby amended to read as follows:
- 1-3 **16-24-1. Duty of school committee to provide special education.** -- (a) In any city or  
1-4 town where there is a child with a disability within the age range as designated by the regulations  
1-5 of the state board of regents for elementary and secondary education, who is functionally limited  
1-6 to such an extent that normal educational growth and development is prevented, the school  
1-7 committee of the city or town where the child resides shall provide the type of special education  
1-8 that will best satisfy the needs of the child with a disability, as recommended and approved by the  
1-9 state board of regents for elementary and secondary education in accordance with its regulations  
1-10 governing the education of children with disabilities.
- 1-11 (b) Notwithstanding any other federal or state law or regulation, the school committee  
1-12 where a parentally placed child who has or develops a disability in private school resides, shall  
1-13 provide the child with the same free and appropriate education as it provides to children in public  
1-14 schools. These children shall have the same rights and remedies in the regulations of the board of  
1-15 regents for elementary and secondary education governing the education of children with  
1-16 disabilities as children in public school relative to initially determining eligibility, implementation  
1-17 and/or any other rights and remedies relative to any special education services the child may be  
1-18 eligible or receive from the public school district.
- 1-19 (c) For the purpose of this statute, a parentally placed child who has or develops a  
1-20 disability in private school is defined as a child enrolled or placed in a private school by the  
2-1 unilateral decision of his or her parents and without consultation of the public school district, who  
2-2 either has, or at some point while at the private school is diagnosed with a learning disability.  
2-3 Parents who unilaterally enroll their child in a private school are required to pay the tuition costs  
2-4 related to the child's education that are unrelated to the child's disability, and the public school  
2-5 district where the child resides is responsible for payment of the services related to the child's  
2-6 disability as developed and determined in the child's individual education plan.
- 2-7 (d) For the purpose of this statute, a free and appropriate education is defined as special  
2-8 education services and related services that:
- 2-9 (i) Are provided at public expense, under public supervision and direction, and without  
2-10 charge;
- 2-11 (ii) Meet all of the standards and requirements of the state of Rhode Island department of  
2-12 education and requirements of the regulations of the board of regents for elementary and  
2-13 secondary education governing the education of children with disabilities, which shall include  
2-14 initial evaluation and determination procedures;
- 2-15 (iii) Include preschool, elementary school or secondary school education in the state; and  
2-16 (iv) Are provided in conformity with an individualized education program that meets the  
2-17 requirements of the regulations of the board of regents for elementary and secondary education  
2-18 governing the education of children with disabilities.
- 2-19 (e) In those cases that an individual education plan has been adopted for a child and the  
2-20 child moves to another town or city, the plan shall remain in effect until a new plan is adopted for  
2-21 the child in the new town or city.
- 2-22 (f) In order to avoid unnecessarily limiting the options of a school committee or local  
2-23 educational agency for providing a free appropriate public education to any of its students with  
2-24 disabilities who may require placement in a non-public school, it shall not be an eligibility  
2-25 requirement for approval by the Rhode Island department of education, as a non-public special  
2-26 education program or school in which children with disabilities may be placed by their public

- 2-27 school or to which they may be referred by their public school, that the non-public school's
- 2-28 teaching staff meet the Rhode Island department of education's certification requirements for
- 2-29 public school regular or special education teachers.
- 2-30 SECTION 2. This act shall take effect upon passage.

 <small>voting check off graphic</small>	<p><b>MOTION: To find 12 H 7655 AN ACT RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES harmful JD/GR passed, Abstaining RC, LD, HD, PP</b></p>
	<p>Discussion: H 7785/S2638 ACTS RELATING TO INSURANCE - INSURANCE COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE</p> <p>These acts would require health insurers to reimburse mental health and substance abuse practitioners in the same way practitioners in other fields are reimbursed.</p> <p>This act would take effect upon passage.</p>

1-1 SECTION 1. Section 27-38.2-1 of the General Laws in Chapter 27-38.2 entitled

1-2 "Insurance Coverage for Mental Illness and Substance Abuse" is hereby amended to read as

1-3 follows:

1-4 **27-38.2-1. Mental illness coverage.** -- Every health care insurer that delivers or issues

1-5 for delivery or renews in this state a contract, plan, or policy except contracts providing

1-6 supplemental coverage to Medicare or other governmental programs, shall: ~~provide~~ (1) Provide

1-7 coverage for the medical treatment of mental illness and substance abuse under the same terms

1-8 and conditions as that coverage is provided for other illnesses and diseases; and (2) Ensure that

1-9 reimbursement for professional providers providing treatment of mental illness and substance

1-10 abuse is determined using the same methodology as reimbursement for professional providers of

1-11 medical services. Insurance coverage offered pursuant to this statute must include the same

1-12 durational limits, amount limits, deductibles, and co-insurance factors for mental illness as for

1-13 other illnesses and diseases.

1-14 SECTION 2. This act shall take effect upon passage.

 <small>voting check off graphic</small>	<p><b>MOTION: To find 12 H 7785/S2638 ACTS RELATING TO INSURANCE - INSURANCE COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE beneficial JD/RH passed Abstaining AP,LD, HD, PP</b></p>
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 <small>law graphic</small>	<p><b>Commission's Legislative Package</b></p>		<b>4:15</b>
	<p>Purpose/Goal: Update on the status of the Commission's bills and those the Legislation Committee have taken a position on.</p>		
	<p>Discussion: See attached report.</p>		

 <small>Announcer graphic</small>	<b>Announcements</b>	Linda Ward	<b>4:20</b>
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 <small>calendar graphic</small>	<b>Agenda and Scheduling the Next Meeting</b>	Linda Ward	<b>4:25</b>
	<p>Items to be placed on the next meeting's agenda:</p> <ol style="list-style-type: none"> <li>1. Review Tabled Bills</li> <li>2. Review New Bills</li> <li>3. Review Amended Bills</li> <li>4. Status of Legislative Package</li> </ol>		
	<p>Next meeting will be on: April 16<sup>th</sup> from 3 - 4:30 PM</p>		

 <small>alarm clock graphic</small>	<b>Adjournment</b>	<b>Linda Ward</b>	<b>4:30</b>
 <small>voting check off graphic</small>	<b>MOTION: To adjourn at 4:46 PM JD/RC passed unanimously</b>		