



Governor's Commission on Disabilities Legislation Committee Minutes

Monday, December 10, 2012 3 - 4:30 PM

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Attendees: Linda Ward (Chair.); Bill Inlow (Vice Chair.); Rosemary C. Carmody, Linda Deschenes, & Angelina Stabile
Absent: Sharon Brinkworth, Mike Burk, Joseph Cirillo, Regina Connor, Heather Daglieri, Julie DeRosa, Judi Drew, Sarah Everhart Skeels, Timothy Flynn, Roger Harris, Elaina Goldstein, Casey Gartland, Kathleen Heren, Kate McCarthy-Barnett, Paula Parker, Arthur M. Plitt, Meredith Sheehan, Msgr. Gerard O. Sabourin, & Dawn Wardyga

Staff: Bob Cooper, Executive Secretary



Clock graphic

3:00 Call to Order and Acceptance of the Minutes, Linda Ward, Chair
Chair calls the meeting to order at 3:10 PM



voting check off graphic

MOTION: To accept the minutes of the previous meeting as presented
LD/RC passed unanimously

Action Items:



Capitol graphic

3:05 Commission's Legislative Package, Bob Cooper, Executive Secretary

Purpose/Goal: To draft potential bills for the Commission's Legislative Package

Discussion: The Commission adopted the 2013 Legislative Package as recommended:

Priority/Item	Action Needed
<p>1) Transportation to Employment, job training, education, health care, etc.</p> <p>a) Maintain the existing RIPTA/RIde service areas;</p> <p>b) Adequate funding/new & stable funding source¹;</p> <p>c) Expand the RIPTA/RIde service areas/hours beyond the existing service/hours</p>	<p>Support RI Coalition for Transportation Choices' funding efforts</p>



voting check off graphic

MOTION: To direct staff to work with the RI Coalition for Transportation Choices' in drafting legislation to establish a stable funding source for RIPTA and RIde. AS/RC passed, Abstained LD

2) **Global Medicaid Consumer Choice Waiver**; making sure the 2008 level of services stay in place for persons with severe disabilities:

a) Restore the 2008 Katie Beckett and children with autism spectrum disorders eligibility rules;

Arrange testimony at Medicaid Budget Hearings



voting check off graphic

MOTION: To designate Dawn Wardyga, lead advocate on Katie Beckett program reductions whom will be responsible for recruiting consumers and family members to testify on the impact on their families, if she

	<p>consents. AS/WI passed, Abstained LD MOTION: To support advocates seeking to reverse changes in the interpretation of the children with autism spectrum disorders eligibility rules who will be responsible for recruiting consumers and family members to testify on the impact on their families. WI/AS passed, Abstained LD</p>	
	<p>b) Restore the right to medically necessary brand name drugs without requiring two generic failures before allowing brand nameⁱⁱ;</p>	<p>Reintroduce bill?</p>
<input checked="" type="checkbox"/> <small>voting check off graphic</small>	<p>MOTION: To support advocates working to restore the right to medically necessary brand name drugs without requiring two generic failures before allowing brand name. WI/RC passed, Abstained LD</p>	
	<p>c) Improve services for adults with autism spectrum disordersⁱⁱⁱ;</p>	<p>Reintroduce bill?</p>
<input checked="" type="checkbox"/> <small>voting check off graphic</small>	<p>MOTION: To support advocates draft the legislation to improve services for adults with autism spectrum disorders RC/WI passed, Abstained LD</p>	
	<p>d) Retain multiple behavioral healthcare service delivery models;</p>	<p>Arrange testimony at Medicaid Budget Hearings</p>
<input checked="" type="checkbox"/> <small>voting check off graphic</small>	<p>MOTION: To designate Jon DuPre, lead advocate on retention of multiple behavioral healthcare service delivery models who will be responsible for recruiting consumers and family members to testify on the impact adults with behavioral disabilities, if he consents WI/RC passed, Abstained LD</p>	
	<p>e) Maintain developmental disability service funding; and</p>	<p>Arrange testimony at Medicaid Budget Hearings</p>
<input checked="" type="checkbox"/> <small>voting check off graphic</small>	<p>MOTION: To designate Bob Cooper, lead advocate on developmental disability service program reductions who will be responsible for recruiting consumers and family members to testify on the impact on adults with developmental disabilities. WI/AS passed, Abstained LD, RC, & LW</p>	
	<p>f) Post-Global Medicaid Consumer Choice Waiver Transition Plan</p>	<p>Subcmte. request meeting with EOHHS Secretary</p>
<input checked="" type="checkbox"/> <small>voting check off graphic</small>	<p>MOTION: To designate Bob Cooper, lead advocate on who will be responsible for recruiting consumers and family members to testify on the impact of consumers and their families. RC/WI passed, Abstained LD</p>	
	<p>3) Housing Supports and other services for people with behavioral health concerns: a) Restore the Neighborhood Opportunities Program funding; and b) Create a supportive housing program; and c) Expansion of Affordable Housing - require at least 2 additional affordable housing units for cities and towns that have not met the affordable</p>	<p>Support RI Coalition for the Homeless' funding efforts</p>

housing goals		
<input checked="" type="checkbox"/> voting check off graphic	MOTION: To support the RI Coalition for the Homeless' efforts and other organizations to establish a stable funding source for the Neighborhood Opportunities Program & supportive housing WI/RC passed, Abstained LD.	
4)	Require Health Insurance Plans to cover specialty drug (Tier 4 Drug Category) in Tier 3 ^{iv}	Support National Multiple Sclerosis Society's efforts
<input checked="" type="checkbox"/> voting check off graphic	MOTION: To support the National Multiple Sclerosis Society RI Chapter's efforts to require health insurance plans to cover specialty drug (Tier 4 Drug Category) in Tier 3 RC/WI passed Abstained LD	
5)	Refocusing State and Municipal Disability Pension Systems to become Reemployment ^v	Revise with assistance from the Governor and General Treasurer's offices & government employee unions
<input checked="" type="checkbox"/> voting check off graphic	MOTION: To direct staff to redraft the legislation to refocusing state and municipal disability pension systems to become reemployment AS/WI passed, Abstained LD	
6)	Accessibility to Services: a) Provide interpreter services for ancillary healthcare programs or supports (including peer supports); and b) Provide closed captions of all Capitol Television programming	Support Commission on the Deaf and Hard of Hearing's funding efforts
<input checked="" type="checkbox"/> voting check off graphic	MOTION: To support the Commission on the Deaf and Hard of Hearing's efforts/direct staff to draft legislation to establish a stable funding source for interpreter services for ancillary healthcare programs or supports (including peer supports) and to require closed captioning of all Capitol Television programming. RC/WI passed, Abstained LD	
 Prisoner graphic	4:00 Attorney General's Criminal Background Check Legislation, Linda Ward, Chair Purpose/Goal: To review and comment on the 2013 draft Criminal Records Check legislation Discussion: The Chair briefs the Committee on the Attorney General's bill	

AN ACT RELATING TO CRIMINAL PROCEDURE - NATIONAL CRIMINAL RECORDS CHECK SYSTEM

Introduced By:

Date Introduced By:

Referred To:

1 It is enacted by the General Assembly as follows:

2 **SECTION 1.** Section 12-1-4 of the General Laws in Chapter 12-1 entitled "Identification and
3 Apprehension of Criminals" is hereby amended to read as follows:

4 **12-1-4. Division of criminal identification -- Chief and assistants.** – (a) There shall be a
5 division of criminal identification in the department of the attorney general to be in charge of a
6 chief who shall be appointed by the attorney general to serve at the pleasure of the attorney
7 general, and who shall devote all of his or her time to the duties of his or her office. The chief with

1 the approval of the attorney general may appoint any assistants that he or she may deem necessary
2 to carry out the work of the division, within the limits of any appropriation made for that purpose,
3 and may with the approval of the attorney general discontinue the employment of any assistants at
4 any time. The chief shall perform the functions required by the provisions of this chapter. In
5 addition to availability of records to law enforcement agencies and officers, the records shall be
6 made available to any attorney of record in any criminal action, and any officials of businesses
7 which are required by federal or state law or regulation to effectuate a criminal background check
8 of potential or prospective employees. The information shall be confidential and shall be used only
9 by the employer for the employee's application of employment.

10 ^{add}(b) The department of attorney general may establish and maintain an automated
11 fingerprint identification system database that would allow the department to store and maintain
12 all fingerprints submitted in accordance with a national criminal records check system. The
13 automated fingerprint identification system database would provide for an automatic notification if
14 and when a subsequent criminal arrest fingerprint card submitted into the system matches a set of
15 fingerprints previously submitted in accordance with a national criminal records check. If the
16 mentioned arrest results in a conviction, the department shall immediately notify those
17 individuals and entities with which that individual is associated, who are required to be notified of
18 disqualifying information concerning national criminal records checks under these general laws.
19 The information in the database established under this section is confidential and is not subject to
20 disclosure under the access to public records act, chapter 2 of title 38 of the general laws.

21 (c) The department of the attorney general or the department of health shall maintain an
22 electronic web-based system to assist facilities, licensed under chapters 23-17, 23-17.4, 23-17.7.1 or
23 section 23-1-52, required to check relevant registries and conduct criminal records checks of direct
24 patient access applicants. The department of the attorney general or the department of health shall
25 provide for an automated notice, as authorized in subsection 12-1-4(b), to those facilities if a direct
26 patient access employee is subsequently convicted of a disqualifying offense, as described in the
27 relevant licensing statute. The department of the attorney general or the department of health may
28 charge a facility a one-time set up fee of up to one hundred dollars (\$100) for access to the
29 electronic web-based system under this section.

30 (d) The department of attorney general, the department of health, or an employer who
31 disqualifies an applicant from employment or continued employment on the basis of a
32 disqualification notice as described in subsection 12-1-4(c) or of a criminal records check relating to
33 disqualifying information shall not be liable for civil damages or subject to any claim, demand, cause
34 of action, or proceeding of any nature as a result of the disqualification. ^{add}

35 SECTION 2. Section 23-1-52 of the General Laws in Chapter 23-1 entitled "Department of
36 Health" is hereby amended to read as follows:

37 **23-1-52. Adult day care program licensure.** – (a) The director is authorized and directed to
38 establish a program for the licensure of adult day care programs. "Adult day care program" shall
39 mean a comprehensive, nonresidential program designed to address the biological, psychological,
40 and social needs of adults through individual plans of care that incorporate, as needed, a variety of
41 health, social and related support services in a protective setting. The director is further authorized
42 to promulgate regulations as he or she deems necessary to implement these provisions.

43 ^{add}(b) Any person seeking employment in any adult day care facility licensed herein and
44 having routine contact with an adult day care client or having access to such a client's belongings or
45 funds shall undergo a national criminal records check, which shall include fingerprints submitted to
46 the federal bureau of investigation (FBI) by the bureau of criminal identification of the department
47 of the attorney general or a designated vendor approved by the department of the attorney

1 general. The national criminal records check shall be processed prior to or within one week of
2 employment. All persons who, as of July 1, 2013, are already employed by an adult day care facility
3 and all persons who, as of such date, already provide services under this section shall be exempted
4 from the requirements of this section for purposes of their current employment only.

5 (1) The director may by rule, identify those positions requiring national criminal records
6 checks. The employee, through the employer, shall apply to the bureau of criminal identification of
7 the department of the attorney general for a national criminal records check. Upon the discovery of
8 any disqualifying information as defined in sections 23-1-52(c) and in accordance with rules
9 promulgated by the director, the bureau of criminal identification of the department of the attorney
10 general shall inform the applicant in writing of the nature of the disqualifying information; and,
11 without disclosing the nature of the disqualifying information, shall notify the employer in writing
12 that disqualifying information has been discovered.

13 (2) An employee against whom disqualifying information has been found may provide a copy
14 of the national criminal records check to the employer. The administrator shall make a judgment
15 regarding the continued employment of the employee.

16 (3) In those situations in which no disqualifying information has been found, the bureau of
17 criminal identification of the department of the attorney general shall inform the applicant and the
18 employer in writing of this fact.

19 (4) The employer shall maintain on file, subject to inspection by the department of health,
20 evidence that statewide criminal records checks have been initiated on all employees seeking
21 employment between January 1, 2008 and June 30, 2013, and the results of the checks. The
22 employer shall maintain on file, subject to inspection by the department, evidence that national
23 criminal records checks have been initiated on all employees seeking employment on or after July 1,
24 2013, and the results of those checks. Failure to maintain that evidence may be grounds to revoke
25 the license or registration of the employer.

26 (5) The employee or employer shall be responsible for the cost of conducting the national
27 criminal records check through the bureau of criminal identification of the department of the
28 attorney general or a vendor designated by the department of the attorney general.

29 (c) Information produced by a national criminal records check pertaining to conviction, for
30 the following crimes will result in a letter to the employee and employer disqualifying the applicant
31 from employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual
32 assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years
33 of age or older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or
34 the abominable and detestable crimes against nature), felony assault, patient abuse, neglect or
35 mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, felony
36 obtaining money under false pretenses, felony embezzlement, abuse, neglect and/or exploitation of
37 adults with severe impairments, exploitation of elders, felony larceny, or felony banking law
38 violations, or a crime under section 1128(a) of the Social Security Act (42 U.S.C. section 1320a-7(a)).
39 An employee against whom disqualifying information has been found may provide a copy of the
40 national criminal records check to the employer who shall make a judgment regarding the
41 continued employment of the employee. For purposes of this subsection, "conviction" means, in
42 addition to judgments of conviction entered by a court subsequent to a finding of guilty or a plea of
43 guilty, those instances where the defendant has entered a plea of nolo contendere and has received
44 a sentence of probation and those instances where a defendant has entered into a deferred
45 sentence agreement with the attorney general.^{add}

46 SECTION 3. Section 23-17-34 and 23-17-37 of the General Laws in Chapter 23-17 entitled
47 "Licensing of Health Care Facilities" is hereby amended to read as follows:

23-17-34. Criminal records review -- Nursing facilities -- Home nursing care providers and

home care providers. -- (a) Any person seeking employment in a nursing facility, a home nursing care provider, ^{add}hospice provider^{add} or a home care provider which is or is required to be licensed, registered or certified with the department of health if that employment involves routine contact with a patient or resident without the presence of other employees, shall undergo a ^{add}national^{add} criminal ~~{delete}~~background~~{delete}~~ ^{add}records^{add} check ^{add}which shall include fingerprints submitted to the federal bureau of investigation (FBI) by the bureau of criminal identification of the department of the attorney general or a designated vendor approved by the department of the attorney general. The national criminal records check shall ^{add}~~{delete}~~ ^{delete}to~~{delete}~~ be initiated prior to or within one week of employment. ~~{delete}~~ All employees hired prior to the enactment of this section shall be exempted from the requirements of this section. ~~{delete}~~ ^{add}All persons who, as of July 1, 2013, are already employed by a covered facility or provider and all persons who, as of such date, already provide services under this chapter shall be exempted from the requirements of this section for purposes of their current employment only. ^{add}

(b) The director of the department of health may by rule identify those positions requiring criminal ~~{delete}~~ background~~{delete}~~ ^{add}records^{add} checks. The identified employee, through the employer, shall apply to the bureau of criminal identification of the ~~{delete}~~ state police or local police~~{delete}~~ department ^{add}of the attorney general^{add} for a ~~{delete}~~ statewide~~{delete}~~ ^{add}national^{add} criminal records check. ~~{delete}~~ Fingerprinting shall not be required. ~~{delete}~~ Upon the discovery of any disqualifying information as defined in section 23-17-37 and in accordance with the rule promulgated by the director of health, ^{add}or^{add} the bureau of criminal identification of the ~~{delete}~~ state police or the local police~~{delete}~~ department ^{add}of the attorney general^{add} 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.

(c) An employee against whom disqualifying information has been found may ~~{delete}~~ request that a ~~{delete}~~ ^{add}provide^{add} a copy of the ^{add}national^{add} criminal ~~{delete}~~ background report be sent~~{delete}~~ ^{add}records check^{add} to the employer who shall make a judgment regarding the continued employment of the employee.

(d) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the ~~{delete}~~ state police or the local police~~{delete}~~ ^{add}department of the attorney general^{add} shall inform the applicant and the employer, in writing, of this fact.

(e) The employer shall maintain on file, subject to inspection by the department of health, evidence that ^{add}statewide^{add} criminal records checks have been initiated on all employees seeking employment after ^{add}between^{add} October 1, 1991, ^{add}and June 30, 2013^{add} and the results of the checks. ^{add}The employer shall maintain on file, subject to inspection by the department of health, evidence that national criminal records checks have been initiated on all employees seeking employment on or after July 1, 2013, and the results of those checks. ^{add} Failure to maintain that evidence would be grounds to revoke the license or registration of the employer.

(f) ~~{delete}~~ It shall be the responsibility of the bureau of criminal identification of the state police or the local police department to conduct the criminal records check to the applicant for employment without charge to either the ~~{delete}~~ ^{add}The^{add} employee or the employer. ^{add}shall be responsible for the cost of conducting the national criminal records check through the bureau of criminal identification of the department of the attorney general or a vendor designated by the department of the attorney general. ^{add}

23-17-37. Disqualifying information. -- (a) Information produced by a criminal records

review pertaining to conviction, for the following crimes will result in a letter to the employee and

1 employer disqualifying the applicant from employment: murder, voluntary manslaughter,
2 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree
3 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit
4 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against
5 nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree
6 arson, robbery, felony drug offenses, ^{add}felony obtaining money under false pretenses, felony
7 embezzlement, abuse, neglect and/or exploitation of adults with severe impairments, exploitation
8 of elders, felony^{add} larceny, or felony banking law violations^{add} or a crime under section 1128(a) of
9 the social security act (42 U.S.C. section 1320a-7(a)).^{add} An employee against whom disqualifying
10 information has been found may ~~{delete} request that^{delete}~~ ^{add}provide^{add} a copy of the
11 ^{add}national^{add} criminal ~~{delete} background report be sent^{delete}~~ ^{add}records check^{add} to the
12 employer who shall make a judgment regarding the continued employment of the employee.

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

18 SECTION 4. Chapter 23-17 of the General Laws entitled "Licensing of Health Care Facilities" is
19 hereby amended by adding thereto the following section:

20 ^{add}**23-17-60. Criminal records review - long-term care hospital.** -- (a) For the purposes of
21 this section, a "long-term care hospital" shall mean a facility as described in 42 U.S.C. section
22 1395ww(d)(1)(iv), which receives payment for inpatient services it provides to Medicare
23 beneficiaries pursuant to 42 U.S.C. section 1395ww(m).

24 (b) Any person seeking employment in any long-term care hospital having routine contact
25 with a long-term care hospital patient or having access to such a patient's belongings or funds shall
26 undergo a national criminal records check, which shall include fingerprints submitted to the federal
27 bureau of investigation (FBI) by the bureau of criminal identification of the department of the
28 attorney general or a designated vendor approved by the department of the attorney general. The
29 national criminal records check shall be processed prior to or within one week of employment. All
30 persons who, as of July 1, 2013, are already employed by a long-term care hospital and all persons
31 who, as of such date, already provide services under this section shall be exempted from the
32 requirements of this section for purposes of their current employment only.

33 (1) The director may by rule identify those positions requiring national criminal records
34 checks. The employee, through the employer, shall apply to the bureau of criminal identification of
35 the department of the attorney general for a national criminal records check. Upon the discovery of
36 any disqualifying information as defined in subsection 23-17-60(c) and in accordance with the rule
37 promulgated by the director, the bureau of criminal identification of the department of the attorney
38 general shall inform the applicant in writing of the nature of the disqualifying information; and,
39 without disclosing the nature of the disqualifying information, shall notify the employer in writing
40 that disqualifying information has been discovered.

41 (2) An employee against whom disqualifying information has been found may provide a copy
42 of the national criminal records report to the employer. The administrator shall make a judgment
43 regarding the continued employment of the employee.

44 (3) In those situations in which no disqualifying information has been found, the bureau of
45 criminal identification of the department of the attorney general shall inform the applicant and the
46 employer in writing of this fact.

1 (4) The employer shall maintain on file, subject to inspection by the department, evidence
2 that statewide criminal records checks have been initiated on all employees seeking employment
3 between October 1, 1991 and June 30, 2013, and the results of the checks. The employer shall
4 maintain on file, subject to inspection by the department, evidence that national criminal records
5 checks have been initiated on all employees seeking employment on or after July 1, 2013, and the
6 results of those checks. Failure to maintain that evidence would be grounds to revoke the license or
7 registration of the employer.

8 (5) The employee or employer shall be responsible for the cost of conducting the national
9 criminal records check through the bureau of criminal identification of the department of the
10 attorney general or a vendor designated by the department of the attorney general.

11 (c) Information produced by a national criminal records check pertaining to conviction, for
12 the following crimes will result in a letter to the employee and employer disqualifying the applicant
13 from employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual
14 assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years
15 of age or older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or
16 the abominable and detestable crimes against nature), felony assault, patient abuse, neglect or
17 mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, felony
18 obtaining money under false pretenses, felony embezzlement, abuse, neglect and/or exploitation of
19 adults with severe impairments, exploitation of elders, felony larceny, or felony banking law
20 violations, or a crime under section 1128(a) of the Social Security Act (42 U.S.C. section 1320a-7(a)).
21 An employee against whom disqualifying information has been found may provide a copy of the
22 national criminal records check to the employer who shall make a judgment regarding the
23 continued employment of the employee. For purposes of this subsection, "conviction" means, in
24 addition to judgments of conviction entered by a court subsequent to a finding of guilty or a plea of
25 guilty, those instances where the defendant has entered a plea of nolo contendere and has received
26 a sentence of probation and those instances where a defendant has entered into a deferred
27 sentence agreement with the attorney general.^{add}

28 SECTION 5. Section 23-17.4-27 and 23-17.4-30 of the General Laws in Chapter 23-17.4
29 entitled "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

30 **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment in any assisted
31 living residence licensed under this act and having routine contact with a resident or having access
32 to a resident's belongings or funds shall undergo a ^{add}national^{add} criminal ~~{delete}~~ background~~{delete}~~
33 ^{add}records^{add} check, ^{add}which shall include fingerprints submitted to the federal bureau of
34 investigation (FBI) by the bureau of criminal identification of the department of the attorney general
35 or a designated vendor approved by the department of the attorney general. The national criminal
36 records check shall^{add} ~~to~~ be processed prior to or within one week of employment. ~~{delete}~~ ~~All~~
37 ~~employees hired prior to the enactment of this section shall be exempted from the requirements of~~
38 ~~this section.~~ ^{delete} ^{add}All persons who, as of July 1, 2013, are already employed by an assisted living
39 residence and all persons who, as of such date, already provide services under this chapter, shall be
40 exempted from the requirements of this section for purposes of their current employment only.^{add}

41 (b) The director of the department of health may by rule identify those positions requiring
42 ^{add}national^{add} criminal ~~{delete}~~ background~~{delete}~~ ^{add}records^{add} checks. The employee, through the
43 employer, shall apply to the bureau of criminal identification of the ~~{delete}~~ state police or local
44 police~~{delete}~~ department ^{add}of the attorney general^{add} for a ~~{delete}~~ statewide~~{delete}~~ ^{add}national^{add}
45 criminal records check. ~~{delete}~~ ~~Fingerprinting shall not be required.~~ ~~{delete}~~ Upon the discovery of any
46 disqualifying information as defined in section 23-17.4-30 and in accordance with the rule
47 promulgated by the director of health, the bureau of criminal identification of the ~~{delete}~~ state police

1 ~~or the local police~~^{delete} department ^{add}of the attorney general^{add} will inform the applicant in
2 writing of the nature of the disqualifying information; and, without disclosing the nature of the
3 disqualifying information, will notify the employer in writing that disqualifying information has been
4 discovered.

5 (c) An employee against whom disqualifying information has been found may ~~request~~^{delete}
6 ~~that~~^{delete} ^{add}provide^{add} a copy of the ^{add}national^{add} criminal ~~background report be sent~~
7 ^{add}records check^{add} to the employer. The administrator shall make a judgment regarding the
8 continued employment of the employee.

9 (d) In those situations in which no disqualifying information has been found, the bureau of
10 criminal identification (BCI) of the ~~state police or the local police~~^{delete} ^{add}department of the
11 attorney general^{add} shall inform the applicant and the employer in writing of this fact.

12 (e) The employer shall maintain on file, subject to inspection by the department of health,
13 evidence that ^{add}statewide^{add} criminal records checks have been initiated on all employees
14 seeking employment ~~after~~^{add} ^{add}between^{add} October 1, 1991 ^{add}and June 30, 2013^{add}, and the
15 results of the checks. ^{add}The employer shall maintain on file, subject to inspection by the
16 department of health, evidence that national criminal records checks have been initiated on all
17 employees seeking employment on or after July 1, 2013, and the results of those checks. ^{add}
18 Failure to maintain that evidence would be grounds to revoke the license or registration of the
19 employer.

20 (f) ~~It shall be the responsibility of the bureau of criminal identification (BCI) of the state~~
21 ~~police or the local police department to conduct the criminal records check to the applicant for~~
22 ~~employment without charge to either the employee or employer.~~^{delete} ^{add}The employee or
23 employer shall be responsible for the cost of conducting the national criminal records check through
24 the bureau of criminal identification of the department of the attorney general or a vendor
25 designated by the department of the attorney general. ^{add}

26 **23-17.4-30. Disqualifying information.** -- (a) Information produced by a criminal records
27 review pertaining to conviction, for the following crimes will result in a letter to the employee and
28 employer disqualifying the applicant from employment: murder, voluntary manslaughter,
29 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree
30 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit
31 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against
32 nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree
33 arson, robbery, felony drug offenses, ^{add}felony obtaining money under false pretenses, felony
34 embezzlement, abuse, neglect and/or exploitation of adults with severe impairments, exploitation
35 of elders, felony^{add} larceny or felony banking law violations ^{add}or a crime under section 1128(a) of
36 the social security act (42 U.S.C. section 1320a-7(a)) ^{add}. An employee against whom disqualifying
37 information has been found may ~~request that~~^{delete} ^{add}provide^{add} a copy of the
38 ^{add}national^{add} criminal ~~background report be sent~~^{delete} ^{add}records check^{add} to the
39 employer who shall make a judgment regarding the continued employment of the employee.

40 (b) For purposes of this section, "conviction" means, in addition to judgments of conviction
41 entered by a court subsequent to a finding of guilty or a plea of guilty, those instances where the
42 defendant has entered a plea of nolo contendere and has received a sentence of probation and
43 those instances where a defendant has entered into a deferred sentence agreement with the
44 attorney general.

45 SECTION 6. Section 23-17.7.1-17 and 23-17.7.1-20 of the General Laws in Chapter 23-17.7.1
46 entitled "Licensing of Nursing Service Agencies" is hereby amended to read as follows:

1 **23-17.7.1-17. Criminal records review.** -- (a) Any person seeking employment in a facility
2 which is or is required to be licensed or registered with the department of health if that
3 employment involves routine contact with a patient or resident without the presence of other
4 employees, shall undergo a ^{add}national^{add} criminal ^{delete} ~~background~~^{delete} ^{add}records^{add} check,
5 which shall ^{add}include fingerprints submitted to the federal bureau of investigation (FBI) by the
6 bureau of criminal identification of the department of the attorney general or a designated vendor
7 approved by the department of the attorney general. The national criminal records check shall^{add}
8 be initiated prior to, or within one week of, employment. ^{delete} ~~All employees hired prior to the~~
9 ~~enactment of this section shall be exempted from the requirements of this section.~~ ^{delete} ^{add}All
10 persons who, as of July 1, 2013, are already employed by a covered facility and all persons who, as
11 of such date, already provide services under this chapter shall be exempt from the requirements of
12 this section for purposes of their current employment only.^{add}

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

24 (c) An employee against whom disqualifying information under section 23-17.7.1-20(b) has
25 been found may ^{delete} ~~request that~~ ^{delete} ^{add}provide^{add} a copy of the ^{add}national^{add} criminal
26 ^{delete} ~~background report be sent~~ ^{delete} ^{add}records check^{add} to the employer who shall make a
27 judgment regarding the continued employment of the employee.

28 (d) In those situations in which no disqualifying information has been found, the bureau of
29 criminal identification of the ^{delete} ~~state police or the local police~~^{delete} ^{add}department of the
30 attorney general^{add} shall inform the applicant and the employer, in writing, of this fact.

31 (e) The employer shall maintain on file, subject to inspection by the department of health,
32 evidence that criminal records checks have been initiated on all employees ^{add}seeking employment
33 between October 1, 1991 and June 30, 2013, and the results of the checks. The employer shall
34 maintain on file, subject to inspection by the department of health, evidence that national criminal
35 records checks have been initiated on all employees seeking employment on or after July 1, 2013,
36 and the results of those checks.^{add} Failure to maintain that evidence would be grounds to revoke
37 the license or registration of the employer.

38 (f) ^{delete} ~~It shall be the responsibility of the bureau of criminal identification of the state~~
39 ~~police or the local police department to conduct the criminal records check to the applicant for~~
40 ~~employment without charge to either the employee or the employer.~~ ^{delete} ^{add}The employee or
41 the employer shall be responsible for the cost of conducting the national criminal records check
42 through the bureau of criminal identification of the department of the attorney general 1 or a
43 vendor designated by the department of the attorney general.^{add}

44 **23-17.7.1-20. Disqualifying information.** -- (a) Information produced by a criminal records
45 review pertaining to conviction, for the following crimes will result in a letter to the employee and
46 employer disqualifying the applicant from the employment: murder, voluntary manslaughter,
47 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree

1 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit
 2 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against
 3 nature), felony assault, patient abuse, neglect or mistreatment of patients, first degree arson,
 4 robbery, felony drug offenses, ^{add}felony obtaining money under false pretenses, felony
 5 embezzlement, abuse, neglect, and/or exploitation of adults with severe impairments, exploitation
 6 of elders, felony^{add}larceny, or felony banking law violations ^{add}or a crime under section 1128(a) of
 7 the social security act (42 U.S.C. section 1320a-7(a))^{add}.

8 (b) Information produced by a ^{add}national^{add} criminal records ~~review~~ ^{add}check^{add}
 9 pertaining to convictions for crimes other than those listed in subsection (a) of this section shall
 10 entitle, but not obligate the employer to decline to hire the applicant. An employee against whom
 11 conviction information related to this subsection has been found may ~~request that~~ ^{add}provide^{add} a
 12 copy of the ^{add}national^{add} criminal ~~background report be sent~~ ^{delete} ^{add}records check^{add} to
 13 the employer who shall make a determination regarding the continued employment of the
 14 employee.

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

20 SECTION 7. The act shall take effect on July 1, 2013.

	To find out from Attorney General's Office: Draft Criminal Records Check legislation, how does this affect volunteers (i.e. hospice or respite) going into the individual's home? Report at the January Committee meeting.
Insert graphic	<p>4:20 Public Forums, Linda Ward, Chair</p> <p>TABLED Purpose/Goal: To begin identifying locations and host organizations for the July 22nd - 26th Public Forums</p> <p>Discussion: Need volunteers to secure locations for the public forums, by the January meeting.</p>
 calendar graphic	<p>4:25 Agenda and Scheduling the Next Meeting, Linda Ward, Chair</p> <p>Items to be placed on the next meeting's agenda:</p> <ul style="list-style-type: none"> ✓ Finalize draft legislation <p>Next year's meeting will be on the 2nd Monday from 3 - 4:30 PM on: 01/14; 02/11; 03/11; 04/08; 05/13; 06/10; 07/08; 08/19; 09/09; 10/21; and 12/09.</p>
 alarm clock graphic	<p>4:30 Adjournment, Linda Ward, Chair</p>
 voting check off graphic	<p>MOTION: To adjourn at 4:40 PM. AS/LD passed</p>

**AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC TRANSIT
INVESTMENT**

Introduced By: Representatives O`Grady, Tanzi, Handy, Blazejewski, and Valencia

Date Introduced: February 15, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Sections 39-18.1-2, 39-18.1-3, 39-18.1-4 and 39-18.1-5 of the General
1-2 Laws in Chapter 39-18.1 entitled "Transportation Investment and Debt Reduction Act of 2011"
1-3 are hereby amended to read as follows:

1-4 **39-18.1-2. Legislative findings.** -- The general assembly finds that:

1-5 (1) Rhode Island now has, and for some years has had, a serious shortfall of funds
1-6 available for the upkeep, maintenance and repair of the state's highways, roads, and bridges.

1-7 (2) Rhode Island now funds, and for some years has funded, the local twenty percent
1-8 (20%) match required to bring federal transportation dollars into the state by means of selling
1-9 bonds. This has proven unsustainable and creates unaffordable debt-service obligations for future
1-10 generations of Rhode Island taxpayers.

1-11 (3) The health, safety, and convenience of Rhode Island's citizens are seriously and
1-12 adversely affected when the state's highways, roads, and bridges are not kept in a proper state of
1-13 upkeep, maintenance and repair.

1-14 (4) A critically important function of the state in maintaining the health, safety, and
1-15 welfare of all the people of Rhode Island is to ensure the proper upkeep, maintenance and repair
1-16 of the state's highways, roads, and bridges.

1-17 ^{add}(5) The Rhode Island public transit authority, which depends heavily on proceeds of the
1-18 gasoline tax for its operating budget, has suffered significantly in recent years due to high
1-19 volatility of gasoline prices with a resulting volatility in both the level of gasoline sales and the
1-20 amount of gasoline tax proceeds from such sales.

2-1 (6) Availability of convenient, affordable public transit is critically important to Rhode
2-2 Island's economic health and security because many Rhode Islanders depend on public transit in
2-3 order to get to their places of employment, medical appointments, schools, and to carry on their
2-4 daily activities.

2-5 (7) A critically important function of the state in maintaining the health, safety, and
2-6 welfare of all the people of Rhode Island is to ensure the continued functioning and reliability of
2-7 public transit in Rhode Island. ^{add}

2-8 ~~(5)~~ ^{add}(8) ^{add} Rhode Island must consider all potential sustainable sources as a
2-9 vehicle for
2-9 maintaining and improving the transportation infrastructure of the state^{add}, including public
2-10 transit^{add}.

2-10 ~~(6)~~ ^{add}(9) ^{add} Additional stable and secure funding sources are absolutely
2-11 necessary in order for

2-11 the state to carry out its essential functions, including the upkeep, maintenance and repair of the
2-12 state's highways, roads, and bridges, and providing for the continued functioning and reliability of
2-13 public transit. In order to avoid to the full extent possible the creation of enormous and
2-14 unaffordable debt-service obligations for future generations of Rhode Islanders, these funding
2-15 sources should be created on a pay-as-you-go basis, and bonding should be reduced to the fullest
2-16 extent practicable.

2-17 **39-18.1-3. Definitions.** -- When used in this chapter:

2-18 (1) "Department of Transportation" means the department created by chapter 13 of title
2-19 42 of the general laws of Rhode Island.

2-20 (2) "Director" means the director of the Rhode Island department of transportation.

2-21 (3) "Highway maintenance" means the upkeep, maintenance, and repair of the state's

2-22 highways, roads, and bridges, including repaving or resurfacing the same.

2-23 (4) "State Planning Council" means the state planning council within the division of

2-24 planning of the department of administration, as established by Rhode Island general laws section

2-25 42-11-10.

2-26 (5) "Transportation Improvement Program" means the transportation improvement

2-27 program that is created and amended from time to time by the state planning council.

2-28 ^{add} (6) "Authority" means the Rhode Island public transit authority, established by chapter

2-29 18 of title 39 of the general laws of Rhode Island. ^{add}

2-30 ~~39-18.1-4.~~ ^{delete} ~~Rhode Island highway maintenance trust fund created~~ ^{delete} ^{add} Rhode

2-31 Island

2-32 highway maintenance and public transit trust fund created. ^{add} -- (a) There is hereby created a

2-33 special account in the general fund to be known as the Rhode Island Highway Maintenance ^{add} and

2-34 Public Transit Trust Fund.

3-34 (b) The fund shall consist of all those moneys which the state may from time to time

3-35 direct to the fund, including, but not necessarily limited to, moneys derived from the following

3-36 sources:

3-37 (1) There is imposed a surcharge of thirty dollars (\$30.00) per passenger car and light

3-38 truck to be paid by each car and light truck owner in order to register that owner's vehicle and

3-39 upon each subsequent biennial registration. This surcharge will be effective ^{delete} ~~shall be phased~~

3-40 ~~in at~~

3-41 ~~the rate of ten dollars (\$10.00) each year. The total surcharge will be ten dollars (\$10.00) from~~

3-42 ~~July 1, 2013 through June 30, 2014, twenty dollars (\$20.00) from July 1, 2014 through June 30,~~

3-43 ~~2015, and thirty dollars (\$30.00)~~ ^{delete} from July 1, 2015 ^{add} 2012 ^{add} through June 30, 2016

3-44 ^{add} 2013 ^{add} and each

3-45 year thereafter.

3-46 (2) There is imposed a surcharge of fifteen dollars (\$15.00) per car and truck, for those

3-47 cars and trucks subject to annual registration, to be paid annually by each car and truck owner in

3-48 order to register that owner's vehicle and upon each subsequent annual registration. This

3-49 surcharge will be ^{add} effective ^{add} ^{delete} ~~phased in at the rate of five dollars (\$5.00) each year. The~~

3-50 ~~total~~

3-51 ~~surcharge will be five dollars (\$5.00) from July 1, 2013 through June 30, 2014, ten dollars~~

3-52 ~~(\$10.00) from July 1, 2014 through June 30, 2015, and fifteen dollars (\$15.00)~~ ^{delete} from July 1,

3-53 ^{delete} ~~2015~~ ^{delete}

3-54 2012 through June 30, ^{delete} ~~2016~~ ^{delete} ^{add} 2013 ^{add} and each year thereafter.

3-55 (3) There is imposed a surcharge of thirty dollars (\$30.00) per operator's license to be

3-56 paid every five (5) years by each licensed operator of motor vehicles. This surcharge will be

3-57 phased in at the rate of ten dollars (\$10.00) each year. The total surcharge will be ^{add} effective ^{add}

3-58 ^{delete} ~~ten~~

3-59 ~~dollars (\$10.00) from July 1, 2013 through June 30, 2014, twenty dollars (\$20.00) from July 1,~~

3-60 ~~2014 through June 30, 2015, and thirty dollars (\$30.00)~~ ^{delete} from July 1, ^{delete} ~~2015~~ ^{delete}

3-61 ^{add} 2012 ^{add} through June 30,

3-62 ~~2016~~ ^{add} 2013 ^{add} and each year thereafter.

3-63 ^{add} (4) Notwithstanding any other provision of law to the contrary, all fees paid to the general

3-64 treasury for biennial passenger car and light truck registration and for annual car and truck

3-65 registrations according to the following schedule:

3-66 (i) Beginning in fiscal year 2013, twenty percent (20%) of the fees described in this

3-61 subsection which are collected by the division of motor vehicles shall be transferred to the Rhode
3-62 Island highway maintenance and public transit trust fund and the remainder shall be deposited to
3-63 the general fund.
3-64 (ii) Beginning in fiscal year 2014, forty percent (40%) of the fees described in this
3-65 subsection which are collected by the division of motor vehicles shall be transferred to Rhode
3-66 Island highway maintenance and public transit trust fund and the remainder shall be deposited to
3-67 the general fund.
4-68 (iii) Beginning in fiscal year 2015, sixty percent (60%) of the fees described in this
4-69 subsection which are collected by the division of motor vehicles shall be transferred to Rhode
4-70 Island highway maintenance and public transit trust fund and the remainder shall be deposited to
4-71 the general fund.
4-72 (iv) Beginning in fiscal year 2016, eighty percent (80%) of the fees described in this
4-73 subsection which are collected by the division of motor vehicles shall be transferred to Rhode
4-74 Island highway maintenance and public transit trust fund and the remainder shall be deposited to
4-75 the general fund.
4-76 (v) Beginning in fiscal year 2017, and continuing thereafter in perpetuity, one hundred
4-77 percent (100%) of the fees described in this subsection which are collected by the division of
4-78 motor vehicles shall be transferred to Rhode Island highway maintenance and public transit trust
4-79 fund and the remainder shall be deposited to the general fund.^{add}
4-80 (c) All funds collected pursuant to this section shall be deposited in the highway
4-81 maintenance fund^{add} and public transit trust fund^{add} and shall be used only for the purposes set
4-82 forth in
4-83 this chapter.
4-84 (d) Unexpended balances and any earnings thereon shall not revert to the general fund
4-85 but shall remain in the highway maintenance^{add} and public transit trust^{add} fund. There shall be no
4-86 requirement that moneys received into the highway maintenance fund during any given calendar
4-87 year or fiscal year be expended during the same calendar year or fiscal year.
4-88 (e) The highway maintenance^{add} and public transit trust^{add} fund shall be administered by the
4-89 director, who shall allocate and spend moneys from the fund only in accordance with the
4-90 purposes and procedures set forth in this chapter.
4-91 **39-18.1-5. Allocation of funds.** -- (a) The monies in the ^{add}Rhode Island^{add} highway
4-92 maintenance^{add} and public transit trust^{add} fund ^{delete} ~~to be directed to the department of~~
4-93 ~~transportation~~
4-94 ~~pursuant to subdivision (a)(1) of this section shall be allocated through the transportation~~
4-95 ~~improvement program process to provide the state match for federal transportation funds, in place~~
4-96 ~~of borrowing, as approved by the state planning council.~~ ^{delete} ^{add} shall be apportioned as follows:
4-97 (1) Sixty-five percent (65%) to the department of transportation to be used for highway
4-98 maintenance, to offset borrowing in accordance with subsection (c) of this section.
4-99 (2) Thirty-five percent (35%) to the authority to be used in maintaining, enhancing,
4-100 and/or expanding services. These funds may be used by the authority for capital expenditures
4-101 according to the restrictions contained in subdivision (b)(2) of this section, or for routine
4-102 operations and maintenance, or any combination of those.^{add}
4-103 (b)(1) The expenditure of moneys in the ^{add}Rhode Island^{add} highway maintenance^{add} and
4-104 public
4-105 transit trust^{add} fund ^{add} by the department of transportation^{add} shall only be authorized for
4-106 projects that
5-1 appear in the state's transportation improvement program ^{add} plan as the same has been approved
4-107 by

5-2 [the transportation advisory committee.](#)
5-3 [\(2\) To the extent that moneys in the Rhode Island highway maintenance and public](#)
5-4 [transit trust fund are expended by the authority for capital expenditure, all such expenditures must](#)
5-5 [first be approved by the state planning council, which shall only authorize expenditures for such](#)
5-6 [capital projects that appear in the state's transportation improvement plan as the same has been](#)
5-7 [approved by the transportation advisory committee.](#)
5-8 [\(c\) Moneys received by the department of transportation pursuant to subdivision \(a\)\(1\) of](#)
5-9 [this section shall be used to provide the state match for federal transportation funds, in place of](#)
5-10 [borrowing.](#) ^{add}
5-11 SECTION 2. This act shall take effect on July 1, 2012.

ii 12 H 7650

AN ACT RELATING TO HUMAN SERVICES - MEDICAL ASSISTANCE

Introduced By: Representative Arthur J. Corvese

Date Introduced: February 16, 2012

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Section 40-8-24 of the General Laws in Chapter 40-8 entitled "Medical
1-2 Assistance" is hereby amended to read as follows:
1-3 **40-8-24. Less expensive alternative medications.** -- (a) For pharmaceutical purchases
1-4 eligible for reimbursement under the Medicaid state plan, the department shall encourage the
1-5 substitution of generic drugs which are therapeutically equivalent and interchangeable with
1-6 specific brand name drugs in accordance with section 21-31-16.1 and related regulations of the
1-7 department of health, except in the event that a brand name is determined by the director to be
1-8 less costly to the state than the equivalent generic. Calculation of comparative drug costs shall
1-9 include consideration of the amount paid by the state to the pharmacy for a drug under the current
1-10 retail pharmacy reimbursement formula, less any discounts or rebates, including those paid
1-11 pursuant to federal Medicaid law during the previous calendar quarter, and inclusive of all
1-12 dispensing fees.
1-13 ^{add}(b) [The department shall not require a beneficiary to use, prior to using a brand name](#)
1-14 [prescription drug prescribed by a licensed prescriber, any alternative brand name prescription](#)
1-15 [drug or over-the-counter drugs.](#)
1-16 (c) [The department may require a beneficiary to use, prior to using a brand name](#)
1-17 [prescription drug prescribed by a licensed prescriber, a therapeutically equivalent generic drug,](#)
1-18 [unless, pursuant to sections 5-19.1-19, 5-37-18.1 and 21-31-15\(b\), the prescriber indicates "brand](#)
1-19 [name necessary" on the prescription form, or if the prescriber gives oral directions to that effect](#)
1-20 [to the dispensing pharmacist.](#) ^{add}
2-1 SECTION 2. This act shall take effect on July 1, 2012.

iii 12 H 7928

**AN ACT RELATING TO HUMAN SERVICES - SERVICES FOR ADULTS WITH AUTISM
SPECTRUM DISORDERS**

Introduced By: Representatives Palumbo, Morrison, Flaherty, DeSimone, and Jacquard

Date Introduced: March 08, 2012

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Section 40.1-21-4.3 of the General Laws in Chapter 40.1-21 entitled
1-2 "Division of Developmental Disabilities" is hereby amended to read as follows:

1-3 **40.1-21-4.3. Definitions.** -- As used in this chapter and in chapter 22 of this title the
1-4 words:

1-5 (1) "Ancillary services" means those services provided, and shall include, but not be
1-6 limited to, transportation, housing, housing adaptation, personal attendant care, and homemaker
1-7 services.

1-8 (2) "Case management" means the implementation of an individual's program by
1-9 providing information, by referral to appropriate service providers, by procurement of services,
1-10 and by the coordination of the necessary services.

1-11 (3) "Department" means the Rhode Island department of mental health, retardation, and
1-12 hospitals.

1-13 (4) "Developmental services" means those services provided to developmentally
1-14 disabled adults, and shall include, but not be limited to, habilitation and rehabilitation services,
1-15 and day services.

1-16 (5) "Developmentally disabled adult" means a person, eighteen (18) years old or older
1-17 and not under the jurisdiction of the department of children, youth, and families who is ^{delete}either
^{delete}a
1-18 mentally retarded developmentally disabled adult^{add}, an adult with autism spectrum disorder^{add} or
is a
1-19 person with a severe, chronic disability which:

2-1 (i) Is attributable to a mental or physical impairment or combination of mental and
2-2 physical impairments;

2-3 (ii) Is manifested before the person attains age twenty-two (22);

2-4 (iii) Is likely to continue indefinitely;

2-5 (iv) Results in substantial functional limitations in three (3) or more of the following
2-6 areas of major life activity:

2-7 (A) Self care,

2-8 (B) Receptive and expressive language,

2-9 (C) Learning,

2-10 (D) Mobility,

2-11 (E) Self-direction,

2-12 (F) Capacity for independent living,

2-13 (G) Economic self-sufficiency; and

2-14 (v) Reflects the person's need for a combination and sequence of special,
2-15 interdisciplinary, or generic care, treatment, or other services, which are of lifelong or extended
2-16 duration and are individually planned and coordinated. For purposes of funding, it is understood
2-17 that students enrolled in school will continue to receive education from their local education
2-18 authority in accordance with section 16-24-1 et seq.

2-19 (6) "Diagnosis and evaluation" means a process to determine whether and to what extent
2-20 an individual is developmentally disabled and a study of the individual's condition, situation, and
2-21 needs which lead to a recommendation of what services, if any, would benefit the individual.

2-22 (7) "Individualized program plan" or "general service plan" means a plan, however
2-23 named, which includes, but shall not be limited to, the following:

2-24 (i) An evaluation of the strengths, difficulties, needs, and goals of the individual;

2-25 (ii) A description of those services found to be necessary or appropriate to assist the
2-26 individual in realizing his or her potential for self-sufficiency in major life activities;

2-27 (iii) A description of the agencies and/or individuals, which are proposed to provide each
2-28 of the recommended services;

2-29 (iv) The intermediate and long-range objectives for the individual's development and

2-30 habilitation;

2-31 (v) The expected duration for the provision of the services;

2-32 (vi) A description of the tests and other evaluative devices used and their results;

2-33 (vii) Proposed criteria for monitoring and evaluating the success of the services in

2-34 meeting the individual's needs; and

3-1 (viii) The signatures of the preparers of the plan and the date.

3-2 The individual program plan shall indicate developmental, supportive, or ancillary

3-3 services by function and frequency, the manner of subsidy and delivery and the categories of need

3-4 for services such as transportation, job training, or occupation, housing, housing adaptation,

3-5 personal attendant care, homemaker, or other services. This plan shall be reviewed at least

3-6 annually; provided, however, that authorizations for services and funding issued prior to July 1,

3-7 2011 are null and void. Authorizations will be paid at the rate effective in the quarter the service

3-8 was provided.

3-9 (8) "Mentally retarded developmentally disabled adult" means a person eighteen (18)

3-10 years old or older and not under the jurisdiction of the department of children, youth, and

3-11 families, with significant sub-average, general intellectual functioning two (2) standard deviations

3-12 below the norm, existing concurrently with deficits in adaptive behavior and manifested during

3-13 the developmental period. For purposes of funding, it is understood that students enrolled in

3-14 school will continue to receive education from their local education authority in accordance with

3-15 section 16-24-1 et seq.

3-16 (9) "Service broker" means that individual who assists in facilitating the connection

3-17 between the developmentally disabled person and the services required by the individual program

3-18 plan.

3-19 (10) "Subsidized access to service" means the provisions of financial resources through

3-20 vouchers to a developmentally disabled person to enable the person to gain access to appropriate

3-21 generic and/or special services as required by the individual program plan.

3-22 (11) "Supportive services" means those services provided to developmentally disabled

3-23 adults, and shall include, but not be limited to, occupational therapy, physical therapy,

3-24 psychological services, counseling, nursing services, and medical services.

3-25 SECTION 2. This act shall take effect on July 1, 2012.

iv 12 H 7573

AN ACT RELATING TO INSURANCE - PRESCRIPTION DRUG BENEFITS

Introduced By: Representatives Keable, Naughton, Blazejewski, Morrison, and Tanzi

Date Introduced: February 15, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1-1 ^{add}**SECTION 1. Legislative findings.--** (1) The cost-sharing, deductibles and co-insurance

1-2 obligations for certain drugs are becoming more cost prohibitive for persons trying to overcome

1-3 serious and often life-threatening diseases and conditions, such as cancer, multiple sclerosis,

1-4 rheumatoid arthritis, hepatitis C, hemophilia and psoriasis.

1-5 (2) These drugs are typically new, produced in lesser quantities than other drugs, and not

1-6 available as less expensive brand name or generic prescription drugs. Some health insurance

1-7 plans and policies in other states as well as some self-insured plans have established unique

1-8 categories or specialty tiers for these drugs, sometimes referred to as Tier IV or Tier V.

1-9 (3) Patients under these plans are required to pay a percentage of the costs of these high-

1-10 priced drugs, rather than the traditional co-payment amounts for generic, preferred brand and

1-11 non-preferred brand prescription drugs, often covered by Tier I, Tier II and Tier III plans and

1-12 policies, respectively. As a result, patients covered under plans with specialty tiers must pay
1-13 thousands of dollars in out-of-pocket costs for drugs critical to their treatment.

1-14 (4) It is in the public interest to help patients to afford necessary prescription drugs by
1-15 prohibiting cost-sharing, deductibles and co-insurance obligations by patients that exceed
1-16 payments for non-preferred brand prescription drugs or the equivalent thereof. It is not the intent
1-17 of this legislation to preclude plans or policies from categorizing drugs used in the treatment of
1-18 these common diseases as brand name prescription drugs or generic prescription drug
1-19 equivalents. The extraordinary disparity in cost-sharing, deductible and co-insurance burdens
1-20 imposed on patients whose life and health depend on these drugs constitutes serious and
2-1 unjustified discrimination based on their disease or disability.

2-2 (5) This legislation is intended to provide patients more affordable access to prescription
2-3 drugs essential for their treatment of cancer, multiple sclerosis, rheumatoid arthritis, hepatitis C,
2-4 hemophilia, psoriasis and other diseases. ^{add}

2-5 SECTION 2. Chapter 27-20.8 of the General Laws entitled "Prescription Drug Benefits"
2-6 is hereby amended by adding thereto the following section:
2-7 ^{add}**27-20.8-3. Specialty tiers prohibited.** -- (a) No health plan, which provides coverage for
2-8 prescription drugs and for which cost-sharing, deductibles or co-insurance obligations are
2-9 determined by category of prescription drugs, shall establish tiers of prescription drug co-pays in
2-10 which the maximum prescription drug co-pay exceeds by more than five hundred percent (500%)
2-11 the lowest prescription drug co-pay charged under the health plan. If the health plan provides a
2-12 limit for out-of-pocket expenses for benefits other than prescription drugs, the insurer shall
2-13 include one of the following provisions in the plan that would result in the lowest out-of- pocket
2-14 prescription drug cost to the enrollee or subscriber:

2-15 (1) Out-of-pocket expenses for prescription drugs shall be included under the health
2-16 plan's total limit for out-of-pocket expenses for all benefits provided under the plan: or
2-17 (2) Out-of-pocket expenses for prescription drugs per contract year shall not exceed one
2-18 thousand dollars (\$1,000) per enrollee or subscriber, or two thousand dollars (\$2,000) per insured
2-19 family, adjusted for inflation.

2-20 (b) This section shall not apply to insurance coverage providing benefits for:

2-21 (1) Hospital confinement indemnity;

2-22 (2) Disability income;

2-23 (3) Accident only;

2-24 (4) Long-term care;

2-25 (5) Medicare supplement;

2-26 (6) Limited benefit health;

2-27 (7) Specified disease indemnity;

2-28 (8) Sickness or bodily injury or death by accident or both; and

2-29 (9) Other limited benefit policies.

2-30 (c) It shall be an unlawful discriminatory practice for any employer, labor organization,
2-31 insurer, health maintenance organization or other entity to limit health care coverage such that
2-32 cost-sharing, deductibles or co-insurance obligations for any prescription drug exceeds by more
2-33 than five hundred percent (500%) the lowest prescription drug co-pay charged under the health
2-34 plan; provided however, this subdivision shall not apply to any self-insured employee welfare
3-1 benefit plan, as established in the employee retirement income security act of 1974, as amended.

3-2 (d) Nothing in this section shall apply to the title XIX state plan pursuant to title XIX of
3-3 the Social Security Act to provide Medicaid coverage or title XXI state plan pursuant to Title
3-4 XXI of the Social Security Act to provide medical assistance coverage. The services provided
3-5 shall be in accord with title XIX [42 U.S.C. 1396 et seq.] and title XXI [42 U.S.C. 1397 et seq.]

3-6 [of the Social Security Act.](#)
3-7 [27-20.8-4. Severability. -- If any provision of this chapter or the application thereof to](#)
3-8 [any person or circumstances is held invalid, such invalidity shall not affect other provisions or](#)
3-9 [applications of the chapter, which can be given effect without the invalid provision or application,](#)
3-10 [and to this end the provisions of this chapter are declared to be severable.](#)^{add}
3-11 SECTION 3. This act shall take effect upon passage.

^ 12 H 7616

AN ACT RELATING TO LABOR AND LABOR RELATIONS - RE-EMPLOYMENT OF WORKERS WHO BECOME DISABLED

Introduced By: Representatives Ehrhardt, Naughton, Savage, Martin, and Morgan

Date Introduced: February 16, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Section 28-31-5 of the General Laws in Chapter 28-31 entitled "Workers'
1-2 Compensation - State and Municipal Employees" is hereby amended to read as follows:
1-3 **28-31-5. Payment of benefits for state employees. --** (a) The expenses incurred for and
1-4 in behalf of the state under the provisions of sections 28-31-3, 28-33-5, 28-33-12, 28-33-16, 28-
1-5 33-17, 28-33-18, 28-33-19, 28-33-34, 28-33-35, 28-33-36, 28-33-37, and 28-33-39 and for
1-6 benefits similar to the benefits provided for employees of employers other than the state under the
1-7 provisions of section 28-37-8 as determined by a prior agreement or settled as provided by
1-8 section 28-31-4 or by the department's preliminary determination or decree of the workers'
1-9 compensation court, shall be paid out of any money in the state treasury not otherwise
1-10 appropriated and the state controller shall draw his or her order or orders upon the general
1-11 treasurer for the payment of the claim in accordance with the provisions of the agreement,
1-12 preliminary determination, or decree upon receipt by the controller of a copy of the agreement or
1-13 preliminary determination certified by the director or of a copy of the decree certified by the
1-14 administrator of the workers' compensation court.
1-15 (b) Payments for continuing total incapacity until the employee's total incapacity has
1-16 ended or until his or her death similar to the payments which are provided for employees of
1-17 employers other than the state by section 28-37-8 shall in the case of an employee of the state be
1-18 paid out of any money in the state treasury not otherwise appropriated.
2-19 (c) Benefits similar to the provisions of section 28-37-8 shall be paid to employees of the
2-20 state whose final payment attaining the maximum limit for compensation for total incapacity as
2-21 provided by section 28-33-17 is paid subsequent to January 1, 1969 and who continue to be
2-22 totally incapacitated for work due to an injury sustained while employed by the state.
2-23 (d) The provisions of this section are subject to the provisions of section 28-33-18.2
2-24 ^{add}[suitable alternative employment, and section 28-33-47, reinstatement of injured worker](#)^{add}.
2-25 SECTION 2. Sections 36-4-23.1, 36-4-25 and 36-4-39 of the General Laws in Chapter
2-26 36-4 entitled "Merit System" are hereby amended to read as follows:
2-27 **36-4-23.1. Reemployment lists. --** (a) Any person who holds full status in the classified
2-28 service and resigns in good standing shall be entitled to have his or her name placed on an
2-29 appropriate reemployment list, provided that the person so requests in writing within three (3)
2-30 years of the date of his or her termination from the state service.
2-31 (b) Any person with full status who has resigned and whose appointing authority has
2-32 failed to certify that he or she has resigned in good standing or any person with full status who
2-33 has been dismissed from the classified service may request in writing within three (3) years of the
2-34 date of his or her termination that his or her name be placed on the appropriate reemployment list

2-35 and the request may be granted at the discretion of the personnel administrator. Each name placed
2-36 on a reemployment list shall be stricken therefrom at the expiration of three (3) years from the
2-37 official termination date.

2-38 ^{add} (c) Any person who holds full status in the classified service and who has sustained a
2-39 compensable injury under the provisions of chapter 28-31 and/or sections 16-16-14, 16-16-16,
2-40 16-16-17, 36-10-12, 36-10-14, 36-10-15, 45-21-20, 45-21-21, 45-21.2-7, and/or 45-21.2-9, upon
2-41 written demand for reinstatement pursuant to section 28-33-47 shall be entitled to have his or her
2-42 name placed on an appropriate reemployment list. ^{add}

2-43 **36-4-25. Designation of appropriate list for filling of vacancies.** -- The preferred
2-44 reemployment list shall have precedence over all other lists for the filling of vacancies of
2-45 comparable or less comparable positions in state service until the list is exhausted. ^{delete} ~~Vacancies~~
~~in~~

2-46 ~~positions in the classified service shall be filled as far as practicable by promotional~~
2-47 ~~appointments.~~ ^{delete} -- Whenever a vacancy does exist in any position in the classified service, the
2-48 appointing authority ^{delete} ~~may choose to~~ ^{delete} ~~use~~ ^{add} shall ^{add} use ^{delete} ~~either~~ ^{delete} the
^{delete} ~~employment, promotion, or~~ ^{delete} reemployment

2-49 list to fill the vacancy and shall request the personnel administrator to certify the names of
2-50 persons eligible for appointment from the ^{delete} ~~designated~~ ^{delete} ^{add} reemployment ^{add} list;
provided, however, that

2-51 in the event of the reorganization of a department or division, or the abolishment of a position or
2-52 positions in state service, any classified employee with permanent status affected thereby shall be
2-53 placed in a comparable position within the department or division. If, however, placement within
3-1 the department or division is not possible, then the affected employee shall be placed in a
3-2 comparable position elsewhere in state service. Whenever a position is allocated or reallocated
3-3 upward, the classified employee with permanent status holding that position shall be given an
3-4 opportunity to qualify for the allocated or reallocated position by taking a qualifying examination
3-5 and shall be placed on leave of absence from the old position until the employee has gained status
3-6 or failed to qualify for the position.

3-7 ^{add} Whenever a vacancy does exist in any position in the classified service, the appointing
3-8 authority may choose to use either the employment or promotion list to fill the vacancy and shall
3-9 request the personnel administrator to certify the names of persons eligible for appointment from
3-10 the designated list provided there are no persons eligible for appointment on the reemployment
3-11 list. ^{add}

3-12 **36-4-39. Retirement or transfer to light duty.** -- (a) When an employee has become
3-13 physically or mentally incapable of or unfit for the efficient performance of the duties of his or
3-14 her position ^{add} with or without reasonable accommodation ^{add} by reason of infirmities due to
advanced

3-15 age or other disability, it shall be the duty of the appointing authority to transfer the employee to
3-16 less arduous duties or to order his or her retirement. The appeal procedure established for
3-17 dismissals shall apply to retirements ordered under authority of this section.

3-18 ^{add} (b) The provisions of this section are subject to the provisions of section 28-33-18.2
3-19 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

3-20 SECTION 3. Sections 16-16-14, 16-16-16 and 16-16-19 of the General Laws in Chapter
3-21 16-16 entitled "Teachers' Retirement" are hereby amended to read as follows:

3-22 **16-16-14. Retirement for ordinary disability.** -- (a) Application for ordinary disability
3-23 may be made by a teacher, his or her department head, or a person acting in the teacher's behalf,
3-24 while in active service or on leave of absence for illness, provided that the teacher has had five
3-25 (5) or more years of total service of which at least three (3) consecutive years shall have been as a

3-26 teacher, and the teacher is not entitled to a regular service retirement allowance. A statement from
3-27 a physician shall accompany the application stating that the teacher is physically or mentally
3-28 incapacitated for the performance of duty and that he or she should be retired.

3-29 (b) A medical examination of the teacher shall be made by three (3) physicians engaged
3-30 by the retirement board for this purpose, and should the medical examination show that the
3-31 teacher is physically or mentally incapacitated for the performance of ~~duty~~ ^{add} duties of
the position
3-32 with or without reasonable accommodation ^{add} and ought to be retired, the physicians shall so
report

3-33 and certify to the retirement board and the retirement board, may retire the teacher for ordinary
3-34 disability.

4-1 (c) The retirement board shall establish uniform eligibility requirements, standards, and
4-2 criteria for ordinary disability which shall apply to all members who make application for
4-3 retirement for ordinary disability.

4-4 ^{add} (d) The provisions of this section are subject to the provisions of section 28-33-18.2
4-5 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

4-6 **16-16-16. Retirement for accidental disability.** -- (a) Medical examination of an active
4-7 teacher or a member on leave of absence for illness or injury for accidental disability, and
4-8 investigation of all statements and certificates by him or her or in his or her behalf in connection
4-9 with the accidental disability, shall be made upon the application of the head of the department in
4-10 which the teacher is employed or upon application of the teacher, or of a person acting in his or
4-11 her behalf, stating that the teacher is physically or mentally incapacitated for the performance of
4-12 service as a natural and proximate result of an accident, while in the performance of duty, and
4-13 certify the definite time, place, and conditions of the duty performed by the teacher resulting in
4-14 the alleged disability, and that the alleged disability is not the result of willful negligence or
4-15 misconduct on the part of the teacher, and is not the result of age or length of service, and that the
4-16 teacher ^{add} is physically or mentally incapacitated for the performance of duties of the position
with

4-17 or without reasonable accommodation and ^{add} should, therefore, be retired.

4-18 (b) The application shall be made within five (5) years of the alleged accident from
4-19 which the injury has resulted in the teacher's present disability, and shall be accompanied by an
4-20 accident report and a physician's report certifying to the disability; provided, that, if the teacher
4-21 was able to return to his or her employment and subsequently reinjures or aggravates the same
4-22 injury, the application shall be made within the later of five (5) years of the alleged accident or
4-23 three (3) years of the reinjury or aggravation. The application ~~may~~ ^{add} shall ^{add} also
state that the teacher

4-24 is permanently and totally disabled from any employment ^{add} with or without reasonable
4-25 accommodation ^{add}.

4-26 (c) If a medical examination conducted by three (3) physicians engaged by the retirement
4-27 board, and any investigation that the retirement board may desire to make, shall show that the
4-28 teacher is physically or mentally incapacitated for the performance of service as a natural and
4-29 proximate result of an accident, while in the performance of duty, and that the disability is not the
4-30 result of willful negligence or misconduct on the part of the teacher, and is not the result of age or
4-31 length of service, and that the teacher has not attained the age of sixty-five (65) years, and that the
4-32 teacher should be retired, the physicians who conducted the examination shall so certify to the
4-33 retirement board stating the time, place, and conditions of service performed by the teacher
4-34 resulting in the disability, and the retirement board may grant the teacher an accidental disability
5-1 benefit.

5-2 (d) The retirement board shall establish uniform eligibility requirements, standards, and
5-3 criteria for accidental disability which shall apply to all members who make application for
5-4 accidental disability benefits.

5-5 ^{add} (e) The provisions of this section are subject to the provisions of section 28-33-18.2
5-6 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

5-7 **16-16-19. Reexamination of disability beneficiaries -- Reduction of benefit --**

5-8 **Reinstatement to active service.** – (a) Once each year the retirement board may, and upon his or
5-9 her application shall, require any disability beneficiary under the minimum age of service
5-10 retirement to undergo a medical examination, the examination to be made at the place of
5-11 residence of the beneficiary, or other place mutually agreed upon, by a physician or physicians
5-12 engaged by the retirement board. If the examination indicates that the beneficiary is able to
5-13 engage in a gainful occupation, ^{add}with or without reasonable accommodations, ^{add} his or her
name

5-14 shall be placed on appropriate ^{add}reemployment ^{add} lists of candidates prepared for appointment
to

5-15 positions in his or her department or agency for which he or she is stated to be qualified, of a
5-16 salary grade not exceeding that from which he or she was last retired. Should the beneficiary be
5-17 engaged in a gainful occupation or should he or she be offered service as a result of the placing of
5-18 his or her name on a list of candidates, the retirement board shall adjust, and, from time to time
5-19 readjust, the amount of his or her disability benefit to an amount which shall not exceed the rate
5-20 of benefit upon which he or she was originally retired, and which, when added to the amount then
5-21 earnable by him or her, shall not exceed his or her rate of annual compensation currently for the
5-22 classification that the disability annuitant held prior to retirement. Should any disability
5-23 beneficiary under the minimum age of service retirement refuse to submit to one medical
5-24 examination in any year by a physician or physicians designated by the retirement board, his or
5-25 her benefit shall be discontinued until his or her withdrawal of the refusal, and should his or her
5-26 refusal continue for one year, all his or her rights in and to the benefit shall be revoked by the
5-27 retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a
5-28 member and participate in the rights of the retirement system, to the same extent as any other
5-29 teacher.

5-30 ^{add} (b) The provisions of this section are subject to the provisions of section 28-33-18.2
5-31 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

5-32 SECTION 4. Sections 36-10-12, 36-10-14 and 36-10-17 of the General Laws in Chapter
5-33 36-10 entitled "Retirement System-Contributions and Benefits" are hereby amended to read as
5-34 follows:

6-1 **36-10-12. Retirement for ordinary disability.** -- (a) Application for ordinary disability
6-2 may be made by a member, his or her department head, or a person acting in the member's behalf,
6-3 while in active service or on leave of absence for illness, provided that the member has had five
6-4 (5) or more years of total service of which at least three (3) consecutive years shall have been as
6-5 an employee of the state or as a teacher as defined in chapter 16 of title 16 and the member is not
6-6 entitled to a regular service retirement allowance. A statement from a physician shall accompany
6-7 the application stating that the member is physically or mentally incapacitated for the
6-8 performance of ~~duty~~ ^{add}duties of the position with or without reasonable accommodations ^{add} and
that
6-9 he or she should be retired.

6-10 (b) A medical examination of the member shall be made by three (3) physicians engaged
6-11 by the retirement board for this purpose, and should the medical examination show that the
6-12 member is physically or mentally incapacitated for the performance of duty and ought to be

6-13 retired, the physicians shall so report and certify to the retirement board, and the retirement board
6-14 may retire the member for ordinary disability.

6-15 (c) The retirement board shall establish uniform eligibility requirement standards and
6-16 criteria for ordinary disability which shall apply to all members who make application for
6-17 retirement for ordinary disability.

6-18 ^{add} (d) The provisions of this section are subject to the provisions of section 28-33-18.2
6-19 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

6-20 **36-10-14. Retirement for accidental disability. --** (a) Medical examination of an active
6-21 member ^{add} or a member on leave of absence for illness or injury ^{add} for accidental disability and
6-22 investigation of all statements and certificates by him or her or in his or her behalf in connection
6-23 therewith shall be made upon the application of the head of the department in which the member
6-24 is employed or upon application of the member, or of a person acting in his or her behalf, stating
6-25 that the member is physically or mentally incapacitated for the performance of service as a
6-26 natural and proximate result of an accident while in the performance of duty, and certify the
6-27 definite time, place, and conditions of the duty performed by the member resulting in the alleged
6-28 disability, and that the alleged disability is not the result of willful negligence or misconduct on
6-29 the part of the member, and is not the result of age or length of service, and that the member ^{add} is
6-30 mentally or physically incapacitated for the performance of duties of the position with or without
6-31 reasonable accommodation and ^{add} should, therefore, be retired.

6-32 (b) The application shall be made within five (5) years of the alleged accident from
6-33 which the injury has resulted in the members present disability and shall be accompanied by an
6-34 accident report and a physicians report certifying to the disability; provided that if the member
7-1 was able to return to his or her employment and subsequently reinjures or aggravates the same
7-2 injury, the application shall be made within the later of five (5) years of the alleged accident or
7-3 three (3) years of the reinjury or aggravation. The application ~~{delete} may~~ ^{add} shall ^{add} also
state the member is
7-4 permanently and totally disabled from any employment ^{add} with or without reasonable
7-5 accommodation. ^{add}

7-6 (c) If a medical examination conducted by three (3) physicians engaged by the retirement
7-7 board and such investigation as the retirement board may desire to make shall show that the
7-8 member is physically or mentally incapacitated for the performance of service as a natural and
7-9 proximate result of an accident, while in the performance of duty, and that the disability is not the
7-10 result of willful negligence or misconduct on the part of the member, and is not the result of age
7-11 or length of service, and that the member has not attained the age of sixty-five (65), and that the
7-12 member should be retired, the physicians who conducted the examination shall so certify to the
7-13 retirement board stating the time, place, and conditions of service performed by the member
7-14 resulting in the disability and the retirement board may grant the member an accidental disability
7-15 benefit.

7-16 (d) The retirement board shall establish uniform eligibility requirements, standards, and
7-17 criteria for accidental disability which shall apply to all members who make application for
7-18 accidental disability benefits.

7-19 ^{add} (e) The provisions of this section are subject to the provisions of section 28-33-18.2
7-20 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

7-21 **36-10-17. Reexamination of disability beneficiaries -- Reduction of benefit --**

7-22 **Reinstatement to active service. --** (a) Once each year the retirement board may, and upon his or
7-23 her application shall, require any disability beneficiary under the minimum age of service
7-24 retirement to undergo a medical examination. The examination to be made at the place of
7-25 residence of the beneficiary or other place mutually agreed upon by a physician or physicians

7-26 engaged by the retirement board. If the examination indicates that the beneficiary is able to
7-27 engage in a gainful occupation, ^{add}with or without reasonable accommodation, ^{add} his or her
name shall
7-28 be placed on such appropriate ^{add}reemployment^{add} lists of candidates as are prepared for
appointment
7-29 to positions in his or her department or agency for which he or she is stated to be qualified and for
7-30 a salary grade not exceeding that from which he or she was last retired. Should the beneficiary be
7-31 engaged in a gainful occupation or should he or she be offered service as a result of the placing of
7-32 his or her name on a list of candidates, the retirement board shall adjust and from time to time
7-33 readjust, the amount of his or her disability benefit to an amount which shall not exceed the rate
7-34 of benefit upon which he or she was originally retired, and which, when added to the amount then
8-1 earnable by him or her, shall not exceed his or her rate of annual compensation currently for the
8-2 classification that the disability annuitant held prior to retirement. Should any disability
8-3 beneficiary under the minimum age of service retirement refuse to submit to one medical
8-4 examination in any year by a physician or physicians designated by the retirement board, his or
8-5 her benefit shall be discontinued until his or her withdrawal of the refusal and should his or her
8-6 refusal continue for one year, all his or her rights in and to disability benefit shall be revoked by
8-7 the retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a
8-8 member and participate in the rights of the retirement system to the same extent as any other
8-9 member.
8-10 ^{add} (b) The provisions of this section are subject to the provisions of section 28-33-18.2
8-11 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}
8-12 SECTION 5. Sections 45-21-19, 45-21-21 and 45-21-23 of the General Laws in Chapter
8-13 45-21 entitled "Retirement of Municipal Employees" are hereby amended to read as follows:
8-14 **45-21-19. Retirement for ordinary disability.** -- (a) Any member who has had five (5)
8-15 or more years of total service, may, upon the member's own application or upon application of the
8-16 employer, or some person acting in the member's behalf, while in active service or on leave of
8-17 absence for illness, apply for ordinary disability retirement; provided, that the member is not
8-18 entitled to a regular service retirement allowance and; provided, that the member has at least three
8-19 (3) consecutive years of service as an employee of a participating municipality within the five (5)
8-20 years needed to be eligible under this section.
8-21 (b) A statement from a physician shall accompany the application stating that the
8-22 member is physically or mentally incapacitated for the performance of ~~{delete}~~ ~~duty~~ ~~{delete}~~ ^{add} duties of
the position
8-23 with or without reasonable accommodation ^{add} and that the member ought to be retired.
8-24 (c) A medical examination of the member shall be made by three (3) physicians engaged
8-25 by the retirement board for this purpose, and should the medical examination show that the
8-26 member is physically or mentally incapacitated for the performance of duty and ought to be
8-27 retired, the physicians shall so report and certify to the retirement board and the retirement board
8-28 may retire the member for ordinary disability.
8-29 (d) The retirement board shall establish uniform eligibility requirement standards and
8-30 criteria for ordinary disability which apply to all members who make application for retirement
8-31 for ordinary disability.
8-32 ^{add} (e) The provisions of this section are subject to the provisions of section 28-33-18.2
8-33 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}
9-34 **45-21-21. Retirement for accidental disability.** -- (a) Any member in active service, ^{add} or
9-35 on leave of absence due to injury or illness, ^{add} regardless of length of service, is entitled to an
9-36 accidental disability retirement allowance. Application for the allowance shall be made by the

9-37 member or on the member's behalf, stating that the member is physically or mentally
9-38 incapacitated for further service as the result of an injury sustained while in the performance of
9-39 duty and certifying the time, place, and conditions of the duty performed by the member which
9-40 resulted in the alleged disability, and that the alleged disability was not the result of the willful
9-41 negligence or misconduct on the part of the member, and was not the result of age or length of
9-42 service, and that the member has not attained the age of sixty-five (65). The application shall be
9-43 made within five (5) years of the alleged accident from which the injury has resulted in the
9-44 member's present disability ^{add}and that the member is physically or mentally incapacitated for the
9-45 performance of duties of the position with or without reasonable accommodation ^{add} and shall be
9-46 accompanied by an accident report and a physician's report certifying the disability. If a medical
9-47 examination made by three (3) physicians engaged by the retirement board, and other
9-48 investigations as the board may make, confirm the statements made by the member, the board
9-49 may grant the member an accidental disability retirement allowance.

9-50 (b) The retirement board shall establish uniform eligibility requirements, standards and
9-51 criteria for accidental disability which apply to all members who make application for accidental
9-52 disability benefits.

9-53 **45-21-23. Periodical examination of disability annuitants -- Placement on**
9-54 **employment lists.** -- (a) At least once each year the retirement board may, and upon application
9-55 shall, require any disability annuitant under the minimum age for service retirement, whether in
9-56 receipt of an ordinary disability retirement allowance or an accidental disability retirement
9-57 allowance, to undergo a medical examination, the examination to be made at the place of
9-58 residence of the annuitant, or other place mutually agreed upon, by a physician or physicians
9-59 engaged by the retirement board.

9-60 (b) If the examination indicates that the annuitant is able to engage in a gainful
9-61 occupation, ^{add}with or without reasonable accommodation, ^{add} the annuitant's name shall be
placed on
9-62 appropriate lists of candidates that are prepared for appointment to positions in the annuitant's
9-63 department for which the annuitant is stated to be qualified, of a salary grade not less than that
9-64 from which the annuitant was last retired.

9-65 ^{add} (c) The provisions of this section are subject to the provisions of section 28-33-18.2
9-66 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

9-67 SECTION 6. Sections 45-21.2-7 and 45-21.2-9 of the General Laws in Chapter 45-21.2
9-68 entitled "Optional Retirement for Members of Police Force and Fire Fighters" are hereby
10-1 amended to read as follows:

10-2 **45-21.2-7. Retirement for ordinary disability.** -- (a) Any member in active service who
10-3 has five (5) years or more of total service and who is not otherwise eligible for retirement may,
10-4 upon the member's application or upon application of the employer, be retired on an ordinary
10-5 disability retirement allowance, subject to the restrictions set forth in sections 45-21-19, 45-21-
10-6 20, 45-21-23, and 45-21-24.

10-7 ^{add} (b) The provisions of this section are subject to the provisions of section 28-33-18.2
10-8 suitable alternative employment and section 28-33-47 reinstatement of injured worker. ^{add}

10-9 **45-21.2-9. Retirement for accidental disability.** -- (a) Any member in active service, ^{add}or
10-10 on leave of absence due to injury or illness ^{add} regardless of length of service, is entitled to an
10-11 accidental disability retirement allowance. Application for the allowance is made by the member
10-12 or on the member's behalf, stating that the member is physically or mentally incapacitated for
10-13 further service as the result of an injury sustained while in the performance of duty and certifying
10-14 to the time, place, and conditions of the duty performed by the member which resulted in the
10-15 alleged disability and that the alleged disability was not the result of the willful negligence or

10-16 misconduct on the part of the member, and was not the result of age or length of service, and that
10-17 the member has not attained the age of sixty-five (65). The application shall be made within
10-18 eighteen (18) months of the alleged accident from which the injury has resulted in the member's
10-19 present disability ^{add} and that the member is physically or mentally incapacitated for the
performance

10-20 of duties of the position with, or without reasonable accommodation ^{add} ~~{delete}~~ ~~and~~ ~~{delete}~~ ^{add} the
application ^{add} shall be

10-21 accompanied by an accident report and a physician's report certifying to the disability. If the
10-22 member was able to return to his or her employment and subsequently reinjures or aggravates the
10-23 same injury, the member shall make another application within eighteen (18) months of the
10-24 reinjury or aggravation which shall be accompanied by a physician's report certifying to the
10-25 reinjury or aggravation causing the disability. If a medical examination made by three (3)
10-26 physicians engaged by the retirement board, and other investigations as the board may make,
10-27 confirms the statements made by the member, the board may grant the member an accidental
10-28 disability retirement allowance.

10-29 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-
10-30 related trauma that independently contributes to a member's original injury that amounts to more
10-31 than the natural progression of the preexisting disease or condition and is not the result of age or
10-32 length of service. The intervening independent trauma causing the aggravation must be an
10-33 identifiable event or series of work-related events that are the proximate cause of the member's
10-34 present condition of disability.

11-1 (c) "Occupational cancer", as used in this section, means a cancer arising out of
11-2 employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic,
11-3 poisonous, toxic, or chemical substances while in the performance of active duty in the fire
11-4 department.

11-5 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original
11-6 work-related injury from a specific ascertainable event. The specific event must be the proximate
11-7 cause of the member's present condition of disability.

11-8 (e) Any fire fighter, including one employed by the state, or a municipal firefighter
11-9 employed by a municipality that participates in the optional retirement for police officers and fire
11-10 fighters as provided in this chapter, who is unable to perform his or her duties in the fire
11-11 department by reason of a disabling occupational cancer which develops or manifests itself
11-12 during a period while the fire fighter is in the service of the department, and any retired member
11-13 of the fire force of any city or town who develops occupational cancer, is entitled to receive an
11-14 occupational cancer disability and he or she is entitled to all of the benefits provided for in this
11-15 chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is
11-16 employed by the state.

11-17 (f) In the event that any party is aggrieved by the determination of the retirement board
11-18 pursuant to section 45-19-1, for an injury occurring on or after July 1, 2011, the party may submit
11-19 an appeal to the Rhode Island workers' compensation court. The appellant shall file a notice of
11-20 appeal with the retirement board and shall serve a copy of the notice of appeal upon the opposing
11-21 party.

11-22 (g) Within twenty (20) days of the receipt of the notice of appeal, the retirement board
11-23 shall transmit the entire record of proceedings before it, together with its order, to the workers'
11-24 compensation court.

11-25 (h) In the event that a party files a notice of appeal to the workers' compensation court,
11-26 the order of the retirement board shall be stayed pending further action by the court pursuant to
11-27 the provisions of Rhode Island general law section 28-35-20.

11-28 (i) Upon receipt of the record of proceedings before the retirement board, the court shall
11-29 assign the matter to a judge and shall issue a notice at the time advising the parties of the judge to
11-30 whom the case has been assigned and the date for pretrial conference in accordance with Rhode
11-31 Island general law section 28-35-20.

11-32 (j) All proceedings filed with the workers' compensation court pursuant to this section
11-33 shall be de novo and shall be subject to the provisions of chapters 29 to 38 of Title 28 for all case
11-34 management procedures and dispute resolution processes, as provided under the rules of workers'
12-1 compensation court. Where the matter has been heard and decided by the workers' compensation
12-2 court, the court shall retain jurisdiction to review any prior orders or decrees entered by it. Such
12-3 petitions to review shall be filed directly with the workers' compensation court and shall be
12-4 subject to the case management and dispute resolution procedures set forth in chapters 29 through
12-5 38 of title 28 ("Labor and Labor Relations").

12-6 (k) If the court determines that a member qualifies for accidental disability retirement,
12-7 the member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66
12-8 2/3%) of the rate of the member's compensation at the date of the member's retirement, subject to
12-9 the provisions of section 45-21-31.

12-10 SECTION 7. This act shall take effect on January 1, 2013.