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2000 Survey of Rhode Island Law: Legislation: Family Law: An Act Relating to Children, Youth & Families Department

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Family Law. *An Act Relating to Children, Youth & Families Department.* Provides protection in order to promote the right of children within residential state care to be free from both physical and mental restraints, including, physical or mental abuse, corporal punishment, involuntary seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience. Effective July 5, 2000. 2000 R.I. Pub. Laws ch. 73.

This Act¹ sets forth specific language defining such terms as: "Therapeutic Physical Restraint," "Mechanical restraint," "Life threatening physical restraint," "Chemical restraint," "Seclusion" and "Time out."² It also covers children who receive services from a State "covered facility." A "covered facility," which includes among other things, "residential treatment and "in-house educational programming," does not include, however, the public school system or psychiatric hospitals.³ Within the Act, a request for similar rules to be implemented by the Department of Children, Youth and Families (DCYF) at the Rhode Island Training School for Youth on or before January 1, 2001.⁴

The Act also expressly prohibits the use of "life threatening physical restraint on any child at any time" and the administration of restraint upon a child may only be performed by properly trained staff and personnel.⁵ When administering physical restraints, a service provider may only do so to prevent "immediate or imminent risk of harm to the physical safety of the child, staff, or other individuals in the facility."⁶ Once the child no longer poses a threat to himself or others, the restraints must be immediately removed.⁷ Mechanical and chemical restraints may only be administered in approved facilities and strict adherence to the policies established by the service provider is mandated in those facilities.⁸

Furthermore, chemical restraints "must be ordered in writing by a physician and administered in accordance with the standards

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1. See R.I. Gen. Laws § 42-72.9 (1956) (2000 Reenactment).
 2. *Id.* § 42-72.9-3(3), (4), (5), (6), (7) & (8).
 3. See *id.* § 42-72.9-3(2).
 4. See *id.*
 5. See *id.* § 42-72.9-4(A).
 6. *Id.* § 42-72.9-4(C)(1).
 7. *Id.*
 8. See *id.* § 42-72.9-4(C)(2) and §42-72.9-4(C)(6).

adopted by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).⁹ Less restrictive interventions must be attempted first and proven unsuccessful before the use of physical, mechanical or chemical restraints is permitted.¹⁰ Significantly, a child in restraints must be constantly monitored by facility personnel, and any and all restraints must be recorded in detail and must be reviewed by a supervisory panel within forty-eight hours of the administration of the restraint.¹¹

Every covered facility administering restraints of any kind is required to implement policies and procedures that establish monitoring, documentation, reporting and internal review of the use of restraint or seclusion on children.¹² Moreover, training in the use of restraints along with training of "verbal defusing and de-escalation" is required under the Act.¹³ The responsibility of ensuring compliance with the training and restraint procedures falls upon DCYF.¹⁴ Non-compliance with the specific provisions of this Act will subject that particular facility to licensing action, including license revocation, and could subject individual providers that inflict injury upon a child to a \$500 fine and six months in jail.¹⁵

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9. *See id.* § 42-72.9-4(C)(6).

10. *See id.* § 42-72.9-4(C)(3).

11. *See id.* § 42-72.9-4(C)(7),(9).

12. *See id.* § 42-72.9-7.

13. *See id.* § 42-72.9-7(A)(2).

14. *See id.* § 42-72.9-7(B).

15. *See id.* § 42-72.9-8.